

# RECLAMATION

*Managing Water in the West*

**Environmental Assessment**

## **Lower French Creek Off-Channel Habitat Development**

**2016-EA-007  
Mid-Pacific Region**





## **Mission Statements**

The mission of the Department of the Interior is to protect and provide access to our Nation's natural and cultural heritage and honor our trust responsibilities to Indian Tribes and our commitment to island communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water related resources in an environmentally and economically sound manner in the interest of the American public.

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# Section 1: Introduction and Background Information

## 1.1 Introduction

This Environmental Assessment (EA) has been prepared to examine the potential direct, indirect, and cumulative impacts to the affected environment as a result of the Lower French Creek off-channel Habitat Development Project. Reclamation would fund the project as part of the 2016 Klamath River Coho Restoration Grant Program which was proposed by Reclamation as a conservation measure and identified in the *Biological Opinions on the Effects of Proposed Klamath Project Operations from May 31, 2013 through March 31, 2023, on Five Federally Listed Threatened and Endangered Species (BiOp)*.

The EA has been prepared in accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. §4321 et seq.), the Council on Environmental Quality Regulations for implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations (CFR) Parts 1500-1508), and the Department of the Interior regulations for the Implementation of the NEPA (43 CFR Part 46). If there are no significant environmental impacts identified as a result of the analyses, a Finding of No Significant Impacts (FONSI) can be signed to complete the NEPA compliance process.

### Background

The Siskiyou Resource Conservation District (SRCD) would administer the grant leading to the construction of an off-channel pond with coarse woody debris structures and associated vegetation in the floodplain of the lower French Creek. French Creek is a Key Stream in the Scott River watershed that supports a high density of adult and juvenile Southern-Oregon Northern California Coast (SONCC) coho salmon on an annual basis. The Scott River watershed supports anadromous fish runs for three salmonid (*Oncorhynchus*) species: Chinook salmon (*O. tshawytscha*), Coho salmon (*O. kisutch*) and steelhead trout (*O. mykiss*). Scott River coho salmon are part of the Southern Oregon Northern California Coast (SONCC) Coho Evolutionarily Significant Unit, which was listed as threatened under the Endangered Species Act in 1997 and again under the California Endangered Species Act in 2004. The Scott River population is a core, functionally-independent population that has been identified as the most productive natural stock in the upper Klamath River Basin and is likely above the depensation threshold (NMFS, 2014).

The juvenile life stage has been identified as the key limiting factor to coho recovery and is the life stage for which restoration activities in the Scott River watershed would improve smolt production and condition. Coho salmon complete a full year residency in freshwater before out-migrating and therefore require stable cold water habitats during the summer and areas offering low-velocity refuge during the winter. Complex habitats with instream coarse woody debris and riparian vegetation are critical for rearing juvenile coho.

## **1.2 Need for the Proposal**

The purpose of the proposed project is to develop off-channel habitat with coarse woody debris structures and riparian revegetation to increase the carrying capacity of the limiting life stage in the Scott River. The complex high quality habitat would increase the survival and condition of juvenile coho during the critical rearing periods of summer and winter, improving the smolt production of the Scott River and promoting recovery of a core population of SONCC coho salmon. The proposed project is needed to restore natural channel form and function and increase the carrying capacity and condition of juvenile coho salmon in the Scott River watershed which would increase contribution of healthy coho to the Klamath River SONCC coho population.

## **Section 2: Alternatives**

### **2.1 Introduction**

This EA considers two alternatives including the No Action Alternative and the Proposed Action. The No Action Alternative reflects conditions without the Proposed Action and serves as a basis of comparison for determining potential effects to the human environment as a result of implementing the Proposed Action.

### **2.2 No Action Alternative**

Under the No Action Alternative, Reclamation would not approve Siskiyou RCD to work under their Klamath River Coho Restoration grant and complete the project as designed. Anadromous fish habitat would remain its current conditions with the potential to become less habitable in the future and further limiting anadromous fish populations including the endangered coho salmon.

### **2.3 Proposed Action**

Under the Proposed Action Alternative Reclamation would approve Siskiyou RCD to construct an off-channel pond with coarse woody debris structures and associated riparian vegetation in the floodplain of Lower French Creek. The Proposed Action would occur on private land located on river right of lower French Creek in a floodplain depression, 0.5 mile upstream from French Creek's confluence with the Scott River within the Scott River watershed on French Creek (see appendix B).

#### **Construction Activities**

Construction would involve excavation of the pond volume for a 0.25 acre off-channel pond adjacent and connected through a single, flatwater access channel to a glide on French Creek. The connection point, where the access channel keys through the bank has been designed to ensure volitional fish passage while minimizing scour and sediment deposition. The pond is designed to be a minimum of 8

feet deep from the base flow water surface elevation to preserve volume year-round, intercept groundwater and allow for thermal stratification. Twenty five root wads associated with brush bundles would be installed to create over ten coarse woody debris structures within the pond and access channel to provide shelter and complexity.

The off-channel rearing pond would be excavated using a large excavator, along with a 10-yard dump truck to end haul excavated material. Approximately 8,000 cubic yards of cobble, gravel, and sand would be deposited in spoils dump sites at the upper extent of the riparian zone, as far away as possible from the active channel of French Creek (approximately 275 feet) and potential flood inundation.

An access channel, approximately 60 feet in length, would be excavated to connect the pond to lower French Creek. To minimize erosion, large cobble would be used to armor the inlet/outlet of the access channel and approximately 50 feet of the creek bank downstream from the access channel. During excavation of the pond and access channel, a small earthen plug approximately 25 square feet in size would be left intact, separating the pond and access channel from French Creek. Once all other project activities have been completed, the removal of this plug and final connection of the pond and access channel to French Creek would be done using an excavator and is expected to take five minutes. Hay bales would be installed and left at the connection point prior to removal of the plug, to minimize sediment delivery and turbidity into French Creek. These bales would be naturally breached/removed by French Creek flows during early fall precipitation events. Due to retention of this earthen plug, installation of weed-free hay bales, and mechanized equipment avoidance of the active channel of French Creek, fine sediment/silt would be preventing from entering French Creek during project construction work.

Off-channel pond construction would result in the removal of approximately nine alder and cottonwood trees from seven to 14 inches in diameter, as their presence would impede equipment access/operation via a temporary access/spur road.

Up to 25 root wads and/or pieces of large wood would be installed in the off-channel pond to provide shelter and to increase habitat complexity. Root wads and large wood would be anchored by burying a portion (up to 50 percent) of logs in the bank of the pond. Brush bundles would then be pinned under the root wads and large wood to increase shelter and habitat complexity in the pond.

The following actions would be taken to contribute to long term erosion reduction: (1) installation of turbidity barriers; (2) large cobbles would be used to armor the inlet/outlet of the access channel and approximately fifty feet of the river-right bank; (3) the pond would be set at an upstream angle to protect from high-water erosion in the instance of an overtopping event and to reduce the overall impacts to the surrounding riparian zone; (4) planting vertical bundles that would protect the bank and provide long term habitat improvements through increased overhanging vegetation, woody debris accumulation and invertebrate production; (5) all access roads would be graded over and planted with native vegetation to reduce the potential for erosion; (6) all spoils would be removed from the site and placed off location in an area of the landowner's discretion in an approved disposal location.

All mechanized equipment would be inspected and cleaned before transportation to the project site to ensure that no noxious plants/organisms are vectored.



All project activities would be implemented between June 15 and November 1, to minimize impact to riparian habitat adjacent to the active channel of French Creek.

Additional details of the proposed construction activities are shown in the attached final design drawings (see Appendix C).

## **Section 3: Affected Environment & Environmental Consequences**

This section identifies the potentially affected environmental resources and the environmental consequences that could result from the Proposed Action and the No Action Alternatives.

### **3.1 Resources Not Analyzed in Detail**

Impacts to the following resources were considered and found to be minor or absent. Brief explanations for their elimination from further consideration are provided below.

#### **3.1.1 Indian Trust Assets**

Indian Trust Assets (ITAs) are legal interests in assets that are held in trust by the United States for federally recognized Indian tribes or individuals. As indicated in Appendix D, there are no Indian reservations, Rancherias or allotments in the Proposed Action construction area. The nearest ITA is a public domain allotment, identified as 50F S154, approximately 2.86 miles northwest of the project site. On September 22, 2016, Reclamation's KBAO ITA Coordinator, Kristen Hiatt, stated that "based on the nature of the planned work it does not appear to be in an area that would impact Indian hunting or fishing resources or water rights nor is the proposed activity on actual Indian lands, [and] it is reasonable to assume that the proposed action would not have any impacts on ITAs."

#### **3.1.2 Indian Sacred Sites**

Sacred sites are defined in Executive Order 13007 (May 24, 1996) as "any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site." The Proposed Action would not affect and/or prohibit access to and ceremonial use of Indian sacred sites.

#### **3.1.3 Environmental Justice**

Executive Order 12898 requires each Federal agency to identify and address disproportionately high and adverse human health or environmental effects, including social and economic effects of its program, policies, and activities on minority populations and low-income populations. Reclamation has not identified adverse human health or environmental effects on any population as a result of implementing the Proposed Action. Therefore, implementing the Proposed Action would not have a significant or disproportionately negative impact on low-income or minority individuals within the Proposed Action area.

#### **3.1.4 Socioeconomics**

The Proposed Action would create a short term demand for construction related products and services that would support local vendors and may create short term employment opportunities. In general, the project would have an insignificant impact on socioeconomic conditions in the project region.

### **3.1.5 Climate Change and Greenhouse Gases**

Climate change refers to significant change in measures of climate (e.g., temperature, precipitation, or wind) lasting for decades or longer. Many environmental changes can contribute to climate change (e.g., changes in sun's intensity, changes in ocean circulation, deforestation, urbanization, burning fossil fuels) (EPA 2016). Climate change implies a significant change having important economic, environmental, and social effects in a climatic condition such as temperature or precipitation. Climate change is generally attributed directly or indirectly to human activity that alters the composition of the global atmosphere, additive to natural climate variability observed over comparable time periods.

There would be no impacts contributing to climate change or greenhouse gases (GHG) under the No Action Alternative. Under the Proposed Action Alternative, Reclamation would provide \$74,980.89 to Siskiyou RCD to construct its Lower French Creek off-channel Habitat Development Project that would restore the natural channel form and function of the Creek and increase the carrying capacity and condition of juvenile coho salmon. Potentially minor and temporary impacts to climate change or GHG could result from the use of excavators, dump trucks, front-end loaders, and other motorized equipment for intermediate periods over the course of construction. Any impacts to climate change or increases in GHG would be expected to be insignificant due to the size and scope of the project, small change from current conditions, duration of use that is limited to the project construction, and compliance with pollution related laws and regulations. Furthermore, Siskiyou RCD would comply with applicable Federal, state, or local air pollution laws and regulations.

### **3.1.6 Noise**

The proposed project area is typically impacted by traffic noise as it is approximately 0.30 miles away from State Highway 3; thus, the additional temporary noise associated with construction is expected to have only a minor impact. Noise impacts created by the use of heavy motorized equipment would be minimized by limiting construction activities to 7:00 a.m. to 7:00 p.m., Monday through Sunday. Work hours outside this period would need approval in advance by Reclamation, and, upon approval, Siskiyou RCD would be required to contact adjacent landowners prior to work commencing to inform them of the change in work hours and the anticipated level of temporary noise escalations during construction activities. There would be no long-term increases to the ambient noise levels from the implementation of the Proposed Action.

## **3.2 Resources Analyzed in Detail**

This EA would analyze the affected environment of the Proposed Action and No Action Alternative in order to determine the potential impacts and cumulative effects to the following environmental resources.

### **3.2.1 Water Resources**

#### **3.2.1.1 Affected Environment**

The water resources potentially affected would be surface waters within and adjacent to the proposed project area which include French Creek. French Creek is located on the west side of Scott Valley, south of the town of Etna. The creek originates in the Marble Mountains to the west. Elevations in the watershed range from approximately 2,950 feet at the mouth of the creek to approximately 7,400 feet in

the headwaters area. French Creek is a third order stream and has approximately 37.3 miles of perennial stream and drains a watershed area of 20,584 acres.

The lower section of French Creek can be characterized as a low gradient (<1%) meandering channel with alluvial deposits of cobble, gravel, and sand. The riparian community is wouldow dominated and the adjacent floodplain has been developed for agricultural use.

Stream flow in French Creek originates as snowfall in the higher elevations (>5,000 ft.) of the watershed and as rainfall in the lower elevations. Flow is generally highest during warm winter rains and rain-on-snow events, typically occurring between October and March.

### **3.2.1.2 Environmental Consequences**

#### **No Action**

Under the No Action alternative, Reclamation would not provide grant funding to the Siskiyou Resource Conservation District for the purpose of developing off-channel habitat on French Creek. As a result, the restoration of low gradient and off-channel habitats that have the potential to provide a significant amount of complex, diverse, and productive rearing habitat for juvenile salmonids would not occur. However, the SRCD could still see other financial partners or fund the Proposed Action themselves, which is outside the scope of this EA.

#### **Proposed Action**

The analysis of effects on water resources associated with the proposed action alternative was based on potential impacts to surface water quality and quantity. Under the Proposed Action, Reclamation would release grant funding to the SRCD for the for the purpose of developing off-channel habitat on French Creek. The Proposed Action includes activities that would occur within the surface water resource of French Creek including portions of off-channel habitat construction. Excavation of the pond, installation of the large wood and brush bundles, and 95 percent of the flat water access channel would all be completed before the pond is connected to the creek. Once all other project actions have been completed, the removal of the plug and final connection of the pond to the creek would be done by using an excavator and is expected to take five minutes and is expected to result in negligible discharge. Although the excavator would reach into the wetted channel to remove the plug, the excavator itself would not enter the wetted channel. A silt fence would be in place throughout project construction. No dewatering of the main channel would be necessary for project implementation activities.

Landscape stabilization in the form of adding large cobble to armor the inlet/outlet of the access channel and approximately 50 feet of the creek bank downstream from the access channel also has the potential to contribute to surface water impacts associated with the proposed project. However, any impacts would be temporary and localized and the landscape stabilization aspect of the project would ultimately provide long-term benefits to surface water resources by minimizing erosion potential.

All mechanized equipment fueling, servicing, and overnight parked would occur at least 200 feet from any wetted channel. All machinery would be thoroughly inspected and cleaned prior to project implementation.

Pursuant to Section 404 of the Clean Water Act, the project qualifies for authorization under the Army Corps of Engineers – Nationwide Permit Number 27 for “Aquatic Habitat Restoration, Establishment,

and Enhancement Activities” (77 Fed. Reg. 10184, February 21, 2012). A signed landowner agreement between the landowner and the U.S. Fish and Wildlife Service was sent to the U.S. Army Corps of Engineers on May 4, 2016, along with a project notification email. Although the project notification is not required, one was provided as a courtesy. All permit conditions and stipulations as outlined in Nationwide Permit Number 27 must be met during implementation of the proposed project (see Appendix E).

Siskiyou RCD Project Coordinator, Preston Harris, sent a Notice of Intent (NOI) to the California North Coast Regional Water Quality Control Board’s Environmental Scientist, Jake Shannon, on August 8, 2016 to initiate Clean Water Act General 401 Order consultation. A Notice of Applicability (NOA) was received by Siskiyou RCD on October 6, 2016 and stated, “Regional Water Board staff has determined that the proposed activities as described in the NOI are categorically exempt from CEQA review and may proceed under the General 401 Order” (Attachment F). Siskiyou RCD would follow the conditions and requirements listed in the NOA. Any other required permits shall be obtained by the grantee prior to implementation of project activities.

The project would improve floodplain and wetland habitat and function by improving connectivity between the floodplain and stream channel and promoting the geomorphic processes that form and maintain off-channel wetlands and floodplain habitat. Standard best management practices would be employed to minimize short term impacts to streams and floodplains as a result of construction activities. In summary, the project would result in a net benefit to wetland function, connectivity and biological resources.

Overall, potential water quality impacts including temporary increases in turbidity and contribution of sediment instream would be negligible, localized and temporary in nature and only persist during construction activities. Furthermore, several project design features and best management practices have been incorporated into the proposed action to reduce instream work and direct water quality impacts, as well as, long term erosion control concerns. The activities associated with the proposed project are not expected to have an effect on the quantity of the surface water resource. Therefore, no significant impacts to surface water resources would occur as a result of the Proposed Action.

### **3.2.1.3 Cumulative Impacts**

Cumulative impacts result from incremental impacts of the Proposed Action or No Action Alternatives when added to other past, present, and reasonably foreseeable future actions. Cumulative impacts can result from individually minor, but collectively significant actions taking place over a period of time.

Implementation of the Proposed Action would not affect the quantity or long term quality of the surface water resources. Therefore, the Proposed Action would have no significant cumulative impacts on surface water resources.

## **3.2.2 Biological Resources**

### **3.2.2.1 Affected Environment**

French Creek supports populations of coho salmon, steelhead trout, and chinook salmon. French Creek’s vegetative community is primarily mixed coniferous forest of red fir, Douglas fir, Jeffery Pine, ponderosa pine, sugar pine, incense cedar and mountain hemlock. Native hardwoods are also present at

lower elevations and primarily include black oak, Oregon white oak, with an understory of mixed shrubs.

Federally listed threatened and endangered species that may occur within or near the project area are shown in Table 1-1 and Appendix A. Table 1 was generated by accessing and querying the U.S. Fish and Wildlife Service database for endangered, threatened, or candidate species that are located within Siskiyou County, California. The list in Appendix A was provided by Dave Johnson, a U.S. Fish and Wildlife Biologist out of Yreka, California, on October 6, 2016.

### **3.2.2.2 Environmental Consequences**

#### **No Action**

Under the No Action alternative, Reclamation would not provide grant funding to the Siskiyou Resource Conservation District for the purpose of developing off-channel habitat on French Creek. As a result, the restoration of low gradient and off-channel habitats that have the potential to provide a significant amount of complex, diverse, and productive rearing habitat for juvenile salmonids would not occur. However, the SRCD could still see other financial partners or fund the Proposed Action themselves, which is outside the scope of this EA.

#### **Proposed Action**

The potential impacts to all species included in Table 1-1 and Appendix A, as a result of the Proposed Action, have been considered. The proposed action activities are covered under an intraservice consultation performed by the U.S. Fish and Wildlife Service's Yreka Field Office (see Appendix G). Additionally, an informal consultation with the National Marine Fisheries Service (NMFS) for anadromous species has determined that the Proposed Action may affect but is not likely to adversely affect coho salmon or their critical habitat. The proposed restoration activity was also analyzed in the *Biological Opinions on the Effects of Proposed Klamath Project Operations from May 31, 2013, through March 31, 2023, on Five Federally Listed Threatened and Endangered Species* (2013 BiOp). Consistent with the 2013 BiOp, restoration activities that require instream activities would be implemented during low flow periods between June 15 and November 1.

#### ***Fish Relocation Activities***

Should fish relocation activities be required for the proposed project, California Department of Fish and Wildlife personnel (or designated agents) would capture and relocate fish (and amphibians) away from the restoration project work site to minimize adverse effects to listed salmonids. Fish in the immediate project area would be captured by seine, dip net and/or by electrofishing, and would then be transported and released to a suitable instream location.

#### ***Increased Mobilization of Sediment within the Stream Channel***

The proposed project includes ground disturbance in or adjacent to French Creek may increase turbidity and suspended sediment levels within the project work site and downstream areas. Therefore, off channel habitat development construction may result in increased mobilization of sediment into streams. Although riparian restoration may involve ground disturbance adjacent to streams, the magnitude and intensity of this ground disturbance is expected to be small and isolated to the riparian area.

### ***Beneficial Effects to Coho Salmon***

The proposed project would be designed and implemented consistent with the techniques and minimization measures presented in the CDFW's Restoration Manual (Flosi et al. 2010) to maximize the benefits of the project while minimizing effects to salmonids. This restoration project is for the purpose of restoring degraded salmonid habitat and is intended to provide additional habitat for coho salmon. This project is anticipated to contribute to the restoration of coho salmon habitat over the long-term.

### ***Noise, Motion, and Vibration Disturbance from Heavy Equipment Operation***

Noise, motion, and vibration produced by heavy equipment operation is expected as part of the proposed project. However, the use of equipment, which would occur outside the active channel with the exception of use of the excavator bucket to connect the creek to the developed off channel habitat is expected to result in insignificant effects to listed fishes. Listed salmonids would be able to avoid interaction with instream machinery by temporarily relocating either upstream or downstream into suitable habitat adjacent to the worksite.

### ***Stream Bank Stabilization***

A small portion of stream bank stabilization is a component of the proposed project and would reduce sediment delivery to the stream and is likely to improve coho salmon embryo and alevin survival in spawning gravels and reduce injury to juvenile coho salmon from high concentrations of suspended sediment. Successfully reducing streambank erosion would be beneficial to coho salmon because coho salmon would then be exposed to lower suspended sediment concentrations.

Due to the construction time period that the project would be implemented, no impact to birds protected under the Migratory Bird Treaty Act (MBTA) due to construction activities occur outside the nesting and breeding season (typically January through August). If construction activities were to take place within January through August a bird survey would be required prior to any vegetation removal. Additionally, any trees proposed for removal shall be visually inspected to ensure no bald eagle nests are present. Should a bald eagle nest be present, further coordination with the Yreka USFWS field office would be necessary. Therefore, no impacts to species protected under the Bald and Golden Eagle Protection Act are expected as a result of implementation of the proposed project.

#### ***3.2.2.3 Cumulative Impacts***

As the Proposed Action is not expected to result in significant direct or indirect impacts to biological resources due to any impacts being temporary, localize, and beneficial in the long term, there would be no cumulative impacts to biological resources.

#### ***3.2.3 Cultural Resources***

"Cultural Resources" is a broad term that applies to prehistoric, historic, and architectural resources, as well as to traditional cultural properties. Cultural resources can include both archaeological sites, which contain evidence of past human use, and the built environment, which consists of structures such as buildings, roadways, dams, and canals. The National Historic Preservation Act (NHPA) of 1966, as amended, is the primary Federal legislation that outlines the Federal government's responsibilities related to cultural resources. Section 106 of the NHPA requires the Federal government to take into consideration the effects of its undertakings on historic properties. Historic properties are, by definition, cultural resources that are included in, or eligible for inclusion in, the National Register of Historic Places (National Register). The evaluation criteria for National Register eligibility are outlined at 36

CFR Part 60.4.

Compliance with Section 106 of the NHPA follows a process outlined at 36 CFR Part 800. This process includes determining the area of potential effects (APE) for an undertaking, consulting with Indian tribes and other interested parties, identifying if historic properties are present within the APE, assessing the effects the undertaking would have on historic properties, and resolving any adverse effects to historic properties before an undertaking is implemented. The Section 106 process also requires consultation with the State Historic Preservation Officer (SHPO), or Tribal Historic Preservation Officer (THPO) where applicable, to seek concurrence with the finding of effect for the undertaking.

### **3.2.3.1 Affected Environment**

The proposed project is located along French Creek about 0.5 miles upstream of its confluence with the Scott River and is on river-right approximately 0.30 miles downstream from where the State Highway 3 bridge crosses the Creek. The cumulative area of the project site, including development of the pond, access channel, and access road, is roughly 0.25 acres.

### **3.2.3.2 Environmental Consequences**

#### **No Action**

Under the No Action Alternative, Reclamation would not approve Siskiyou RCD to work under their Klamath River Coho Restoration grant and complete the project as designed. Anadromous fish habitat would remain in its current condition with the potential to become less habitable in the future and further limiting anadromous fish populations including the endangered coho salmon. There would be no change to the Lower French Creek and adjacent riparian environments, and, consequently, there would be no change in impacts to cultural resources from current conditions under the No Action Alternative.

#### **Proposed Action**

Under the Proposed Action Alternative, Reclamation would approve and release grant funding to Siskiyou RCD to implement the Lower French Creek off-channel Habitat Development Project. This action constitutes an undertaking with the potential to cause effects to historic properties, assuming such properties are present, requiring compliance with Section 106 of the NHPA as amended. On September 22, 2016, Reclamation Archaeologist, Scott Wouldiams, stated that Reclamation granted the U.S. Fish and Wildlife Service (USFWS) Region 1, Lead Federal Agency status for the Section 106, for this undertaking, and Mr. Anan Raymond, USFWS Region 1 Regional Archaeologist, accepted with the understanding that the Section 106 responsibility would be satisfied under an active Programmatic Agreement (PA), specifically: *Programmatic Agreement Among the U.S. Fish and Wildlife Service Region 1, the Advisory Council on Historic Preservation, and the State Historic Preservation Officer Regarding the Administration of Routine Undertakings in the State of California* (see Attachment H).

Under the PA, USFWS determined that an Appendix A (within USFWS' PA) undertaking, including item 11 (restoration of streambed channels) has minimal potential to affect historic properties; the standard historic property identification effort, including tribal consultation, is not conducted, and; a no historic properties finding is programmatically determined. The proposed project is an undertaking that meets the criteria of Appendix A (within USFWS' PA), item 11 "restoration of stream channels" because the activities and the area of potential effects (APE) occur within an active stream channel. As such, the APE is continually altered by natural forces, and it is unlikely that humans would have occupied or conducted activities (with an archaeological trace) in the APE.



In the event that cultural resources are discovered during project implementation, ground disturbing activities would be halted and the USFWS Regional Archaeologist should be notified to determine how to proceed. Furthermore, if project activities subsequently change, additional NHPA Section 106 review, including consultation with the State Historic Preservation Officer, may be required.

### **3.2.3.3 Cumulative Impacts**

The Proposed Action is anticipated to result in no adverse effects to cultural resources, and, therefore, would not contribute to cumulative impacts to cultural resources.

### **3.2.4 Air Quality**

Section 176 (c) of the Clean Air Act (CAA) (42 U.S.C. 7506 (c)) requires that any entity of the Federal government that engages in, supports, or in any way provides financial support for, licenses or permits, or approves any activity to demonstrate that the action conforms to the applicable State Implementation Plan (SIP) required under Section 110 (a) of the CAA (42 U.S.C. 7401 (a)) before the action is otherwise approved. In this context, conformity means that such federal actions must be consistent with a SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of those standards. Each federal agency must determine that any action that is proposed by the agency and that is subject to the regulations implementing the conformity requirements would, in fact conform to the applicable SIP before the action is taken.

On November 30, 1993, the U.S. Environmental Protection Agency (EPA) promulgated final general conformity regulations at 40 CFR 93 Subpart B for all Federal activities except those covered under transportation conformity. The general conformity regulations apply to a proposed Federal action in a non-attainment or maintenance area if the total direct and indirect emissions of the relevant criteria pollutant(s) and precursor pollutant(s) caused by the Proposed Action equal or exceed certain threshold amounts, thus requiring the Federal agency to make a determination of general conformity.

#### **3.2.4.1 Affected Environment**

The Proposed Action is located in Siskiyou County, California, within the Scott River watershed, where NAAQS and California Ambient Air Quality Standards (CAAQS) have been established for the following criteria pollutants: carbon monoxide (CO), ozone (O<sub>3</sub>), sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), and lead (Pb). The CAAQS has also set standards for hydrogen sulfide (H<sub>2</sub>S), sulfates, and visibility reducing particles.

Areas are classified under the CAA as either "attainment" or "non-attainment" areas for each criteria pollutant based on whether or not the NAAQS have been achieved. Attainment relative to California standards is determined by the California Air Resources Board (CARB). After querying the CARB database at <https://www.arb.ca.gov/desig/adm/adm.htm>, it was determined that Siskiyou County is currently designated as either an unclassified or an attainment area for all Federal and State recognized criteria pollutants.

#### **3.2.4.2 Environmental Consequences**

##### **No Action**

Under the No Action Alternative, Reclamation would not approve or fund Siskiyou RCD to work under

their Klamath River Coho Restoration grant and complete the project as designed. Air quality impacts would not occur as no construction would ensue; however, habitat for anadromous fish, including the endangered coho salmon, would not be improved.

### **Proposed Action**

Under the Proposed Action Alternative Reclamation would approve Siskiyou RCD to construct an off-channel pond with coarse woody debris structures and associated riparian vegetation in the floodplain of Lower French Creek to restore natural channel form and function and increase the carrying capacity and condition of juvenile coho salmon. The Proposed Action would not conflict with or obstruct the implementation of the air quality management plan of Siskiyou County. Emissions would be associated with construction but would be temporary and localized. Standards set by the CARB and Federal agencies relating to the Proposed Action would be required and incorporated at applicable design and approval stages; this may include, but may not be limited to, the application of water as necessary on and around construction sites to reduce fugitive emissions associated with construction activities.

#### **3.2.4.3 Cumulative Impacts**

Emissions associated with the construction of the Proposed Action would have minor effects on air quality, but they would be temporary and localized in nature. Therefore, the Proposed Action would have no significant cumulative impact on air quality.

## **Section 4 Environmental Commitments**

The following environmental commitments would be implemented before, during, and after construction to prevent and reduce the impacts of the Proposed Action.

- **Environmental Permitting** – SRCD would be responsible for complying with all environmental requirements identified in this EA and any other applicable Federal, State, and local permits.
- **Construction Period** - Construction would take place from June 15 to November 1
- **Noise** - Construction would be conducted between 7am to 7pm
- **Biological Resources** -
  - Reporting immediately to Reclamation should any coho salmon captured, relocated, injured, or killed. Identification and tracking of any coho salmon captured, relocated, injured, or killed. All coho salmon mortalities must be retained, placed in an appropriately sized whirl-pak or zip-lock bag, labeled with the date and time of collection, fork length, location of capture, and frozen as soon as possible. Frozen samples must be retained until specific instructions are provided by Reclamation as coordinated with the National Marine Fisheries Service.
  - Fish Relocation activities would be conducted by CDFW
  - Visual inspection any trees proposed for removal to ensure there are no bald eagle nests. If present, further coordination with the Yreka USFWS office would be required.

- **Cultural Resources** - In the case that any cultural resources, either surface or subsurface, are inadvertently discovered during construction, construction in the area of the inadvertent discovery will cease, and a Reclamation's Mid-Pacific Regional archaeologist would be notified. Reclamation's archaeologist would make an assessment of the resource and conduct additional consultations as required. Any person who knows or has reason to know that he/she has inadvertently discovered possible human remains on Federal land, must immediately provide telephone notification of the discovery to a Reclamation official and to Reclamation's Mid-Pacific Regional archaeologist. If applicable, Reclamation would consult under the Native American Graves Protection and Repatriation Act NAGPRA for a discovery of Native American human remains or NAGPRA objects. Work will not resume at that location until notified by Reclamation to proceed.
- **Water Resources** –
  - No mechanized equipment would operate within the wetted channel with the exception of the excavator bucket to connect the creek to the developed off channel habitat.
  - All mechanized equipment fueling, servicing, and overnight parked would occur at least 200 feet from any wetted channel.
  - All equipment would be cleaned and inspected prior to project implementation for water quality internal controls and noxious weed abatement purposes
  - All permit conditions and stipulations identified in Nationwide Permit 27 and California State Water Resources Control Board 401 certification would be followed

## Section 5 Consultation and Coordination

This section presents the agencies and parties that were coordinated or consulted with during development of the document.

### 5.1 Public Review Period

Reclamation prepared this EA to evaluate the effects of the Proposed Action Alternative, and, if after evaluation no significant effects are determined to result from the proposed action, Reclamation will draft the FONSI document. The CEQ regulations do not require that an EA be made for public review. Per 40 CFR 1501.4(e)(2), agencies, in certain limited circumstances, are required to make FONSI's available for public review if the proposed action is, or is closely similar to, one which normally requires an Environmental Impact Statement (EIS) or if the nature of the proposed action is one without precedent. As this project does not meet the criteria stated in the CFR, no public comment period was made available.

## **5.2 Persons or Agencies Consulted During Development of EA**

- U.S. Fish and Wildlife Service (David Johnson, Yreka Field Office)
- Siskiyou Resource Conservation District (Preston Harris)
- California North Coast Water Quality Control Board (Jake Shanon)

## **Section 6: References**

California Environmental Protection Agency – Air Resources Board. Area Designations Maps / State and National. 2016. Website: <https://www.arb.ca.gov/desig/adm/adm.htm>

Environmental Protection Agency. Climate Change – Basic Information. 2016. Website: <http://www.epa.gov/climatechange/basicinfo.html>

U.S. Fish and Wildlife Service. Request A Species List: Listed, Proposed, and Candidate Species Lists (Siskiyou County, California). 2016. Website: <http://www.fws.gov/klamathfallsfwo/es/es.html>

# Appendices

**Table 1-1. Listed, Endangered, Threatened, Proposed, and Candidate Species that May Occur in Siskiyou County, California. (Klamath Falls Fish and Wildlife Version)**



## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Klamath Falls Fish and Wildlife Office  
1936 California Avenue, Klamath Falls, Oregon 97601  
(541) 885-8481 FAX (541) 885-7837  
[kfalls@fws.gov](mailto:kfalls@fws.gov)



### LISTED, PROPOSED, AND CANDIDATE SPECIES THAT MAY OCCUR IN SISKIYOU COUNTY, CALIFORNIA

#### Status: **Endangered**

Phylum	Common Name	Scientific Name	Critical Habitat
Fish	Lost River sucker	<i>Deltistes luxatus</i>	Designated
Fish	Shortnose sucker	<i>Chasmistes brevirostris</i>	Designated
Mammal	Gray wolf	<i>Canis lupus</i>	
Invertebrate	Shasta crayfish	<i>Pacifistacus fortis</i>	
Plant	Yreka phlox	<i>Phlox hirsute</i>	
Plant	Greene's tuctoria	<i>Tuctoria greenii</i>	Designated
Plant	Gentner's fritillary	<i>Fritillaria gentneri</i>	Designated

#### Status: **Threatened**

Phylum	Common Name	Scientific Name	Critical Habitat
Bird	Northern spotted owl	<i>Strix occidentalis caurina</i>	Designated
Bird	Yellow-billed cuckoo (Western DPS)	<i>Coccyzus americanus occidentalis</i>	Proposed
Amphibian	California red-legged frog	<i>Rana aurora draytonii</i>	Designated
Amphibian	Oregon spotted frog	<i>Rana pretiosa</i>	
Plant	Slender Orcutt grass	<i>Orcuttia tenuis</i>	Designated

#### Status: **Proposed**

Phylum	Common Name	Scientific Name	Critical Habitat
Mammal	Wolverine	<i>Gulo gulo luscus</i>	

#### Status: **Candidate**

Phylum	Common Name	Scientific Name
Plant	Whitebark Pine	<i>Pinus albicarpa</i>

Updated July 18, 2016

# Appendix A. Listed, Endangered, Threatened, Proposed, and Candidate Species that May Occur in Siskiyou County, California.

IPaC: Resources - My project

Page 1 of 10

IPaC  
My project Siskiyou County, California U.S. Fish & Wildlife Service

This project potentially impacts 61 resources managed or regulated by the U.S. Fish & Wildlife Service.

## Endangered species

Proposed, candidate, threatened, and endangered species are managed by the Endangered Species Program of the U.S. Fish & Wildlife Service.

The list of species below are those that may occur or could potentially be affected by activities in this location:

## Amphibians

California Red-legged Frog *Rana draytonii*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Yreka Fish And Wildlife Office

Oregon Spotted Frog *Rana pretiosa*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Sacramento Fish And Wildlife Office, Yreka Fish And Wildlife Office

## Birds



**Marbled Murrelet** *Brachyramphus marmoratus*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Arcata Fish And Wildlife Office, Yreka Fish And Wildlife Office

**Northern Spotted Owl** *Strix occidentalis caurina*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Arcata Fish And Wildlife Office, Klamath Falls Fish And Wildlife Office, Sacramento Fish And Wildlife Office, Yreka Fish And Wildlife Office

**Yellow-billed Cuckoo** *Coccyzus americanus*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Arcata Fish And Wildlife Office, Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

## Conifers and Cycads

**Whitebark Pine** *Pinus albicaulis*

Candidate (A species under consideration for official listing for which there is sufficient information to support listing)

Managed by: Arcata Fish And Wildlife Office, Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

## Crustaceans

**Conservancy Fairy Shrimp** *Branchinecta conservatio*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Sacramento Fish And Wildlife Office, Yreka Fish And Wildlife Office

**Shasta Crayfish** *Pacifastacus fortis*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Arcata Fish And Wildlife Office, Klamath Falls Fish And Wildlife Office, Sacramento Fish And Wildlife Office, Yreka Fish And Wildlife Office

---

**Vernal Pool Fairy Shrimp** *Branchinecta lynchi*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Arcata Fish And Wildlife Office, Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

---

**Vernal Pool Tadpole Shrimp** *Lepidurus packardii*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

---

## Fishes

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**Coho Salmon** *Oncorhynchus (=Salmo) kisutch*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Sacramento Fish And Wildlife Office

---

**Delta Smelt** *Hypomesus transpacificus*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Sacramento Fish And Wildlife Office, Yreka Fish And Wildlife Office

---

**Longfin Smelt** *Spirinchus thaleichthys*

Candidate (A species under consideration for official listing for which there is sufficient information to support listing)

Managed by: Yreka Fish And Wildlife Office

---

**Lost River Sucker** *Deltistes luxatus*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

**Shortnose Sucker** *Chasmistes brevirostris*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

## Flowering Plants

**Applegate's Milk-vetch** *Astragalus applegatei*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

**Gentner's Fritillary** *Fritillaria gentneri*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Sacramento Fish And Wildlife Office, Yreka Fish And Wildlife Office

**Greene's Tuctoria** *Tuctoria greenei*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

**Hoover's Spurge** *Chamaesyce hooveri*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

**Mcdonald's Rock-cress** *Arabis macdonaldiana*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Yreka Fish And Wildlife Office

**Slender Orcutt Grass** *Orcuttia tenuis*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Klamath Falls Fish And Wildlife Office, Sacramento Fish And Wildlife Office, Yreka Fish And Wildlife Office

**Yreka Phlox** *Phlox hirsuta*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Yreka Fish And Wildlife Office

## Insects

**Valley Elderberry Longhorn Beetle** *Desmocerus californicus dimorphus*

Threatened (A species likely to become endangered within the foreseeable future throughout all or a significant portion of its range)

Managed by: Yreka Fish And Wildlife Office

## Mammals

**Gray Wolf** *Canis lupus*

Endangered (A species in danger of extinction throughout all or a significant portion of its range)

Managed by: Arcata Fish And Wildlife Office, Klamath Falls Fish And Wildlife Office, Yreka Fish And Wildlife Office

**North American Wolverine** *Gulo gulo luscus*

Proposed Threatened (Species proposed for official listing as threatened)

Managed by: Arcata Fish And Wildlife Office, Klamath Falls Fish And Wildlife Office

## Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

This location overlaps all or part of the critical habitat for the following species:

Marbled Murrelet *Brachyramphus marmoratus*

Final designated critical habitat

Northern Spotted Owl *Strix occidentalis caurina*

Final designated critical habitat

Slender Orcutt Grass *Orcuttia tenuis*

Final designated critical habitat

## Migratory birds

Birds are protected by the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

Any activity that results in the take (to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) of migratory birds or eagles is prohibited unless authorized by the U.S. Fish & Wildlife Service.<sup>[1]</sup> There are no provisions for allowing the take of migratory birds that are unintentionally killed or injured.



## Appendix B. Lower French Creek Off-channel Habitat Development Project Location Map.

### Lower French Creek Off-Channel Habitat Development Project Location Map

PLSS: T 41 N R 09 W Sec. 11 SW 1/4  
USGS Quad: McConaughy Gulch

Siskiyou RCD  
7/16/2015



Map Scale 1:24000  
When printed on 8 1/2" x 11" Paper



0 1,000 2,000 4,000 Feet

## Appendix C. Final Design Drawings.

# CONSTRUCTION PLANS FOR Lower French Creek Habitat Enhancement Project

August 2016

Approved by: \_\_\_\_\_

Landowner: \_\_\_\_\_ Date: \_\_\_\_\_

Siskiyou RCD: \_\_\_\_\_ Date: \_\_\_\_\_

August 11, 2016

Leonard J. Howard  
CALIFORNIA REGISTERED  
PROFESSIONAL ENGINEER NO. 83519  
Cascade Stream Solutions, LLC

### SHEET INDEX

COVER SHEET	1
ACCESS AND SALVAGE PLAN	2
GRADING PLAN	3
HABITAT STRUCTURE PLACEMENT PLAN	4
PROFILE AND SECTIONS	5
SECTIONS	6

### GENERAL NOTES

1. TOPOGRAPHY IS BASED ON SISKIYOU RCD/CASCADE SURVEYS CONDUCTED IN 2015. SIGNIFICANT CHANGES ARE NOT ANTICIPATED BETWEEN THE SURVEY DATE AND 2014 CONSTRUCTION DATE. CONTRACTOR NOTIFY SISKIYOU RCD IF CONTRACTOR NOTES DISCREPANCIES BETWEEN THE PLANS AND THE STREAM BANK.
2. CONTRACTOR SHALL NOTIFY USA NORTH AT 811 OR 1-800-227-2660 OR WYUUSANORTH.ORG TO REQUEST IDENTIFICATION AND LOCATION OF EXISTING UNDERGROUND UTILITIES. CONTRACTOR SHALL CONTACT USA NORTH 2 TO 14 DAYS BEFORE PLANNED EXCAVATION DATE.
3. THIS PROJECT IS SUBJECT TO REQUIREMENTS OF PERMITS ISSUED BY VARIOUS REGULATORY AGENCIES. THE CONTRACTOR IS RESPONSIBLE TO UNDERSTAND AND PERFORM ALL WORK IN ACCORDANCE WITH THE REQUIREMENTS OF THE PERMITS. PRIOR TO COMMENCING WORK, THE CONTRACTOR SHALL COORDINATE WITH THE OWNER'S REPRESENTATIVE TO VERIFY THE MOST RECENT COPY OF ALL APPLICABLE PERMITS ARE INCORPORATED IN TO THE PROJECT CONSTRUCTION DOCUMENTS.
4. THE CONTRACTOR IS RESPONSIBLE FOR DEVELOPING AN EROSION CONTROL AND POLLUTION PREVENTION PLAN FOR CONSTRUCTION ACTIVITIES. THIS PLAN MUST BE APPROVED BY THE OWNER'S REPRESENTATIVE PRIOR TO CONSTRUCTION ACTIVITIES COMMENCING FOR THIS PROJECT.
5. WHEN CONDITIONS IN THE FIELD DO NOT CONFORM WITH INFORMATION IN THESE PLANS AND/OR WHEN UNUSUAL CIRCUMSTANCES ARISE DURING CONSTRUCTION, THE CONTRACTOR SHALL IMMEDIATELY CONTACT THE OWNER'S REPRESENTATIVE.
6. IN THE EVENT THAT ANY ARCHEOLOGICAL ARTIFACTS ARE UNCOVERED DURING CONSTRUCTION ACTIVITIES, THE CONTRACTOR SHALL STOP ALL WORK IMMEDIATELY IN THE AREA AND CONTACT THE OWNER'S REPRESENTATIVE. WORK IN THE AREA SHALL NOT RESUME UNTIL APPROVED BY THE OWNER'S REPRESENTATIVE.

### QUANTITIES

ITEM	QUANTITY	CU. YD.	LENGTH
ROCKWALL	58 TO 30	12 TO 20	15 TO 18
SLURRY WALLS	0	0	0 TO 0
COBOL	100	2.5 TO 3	0

Siskiyou Resource Conservation District  
450 Main St. Etna, CA 96027  
(530) 467-3975

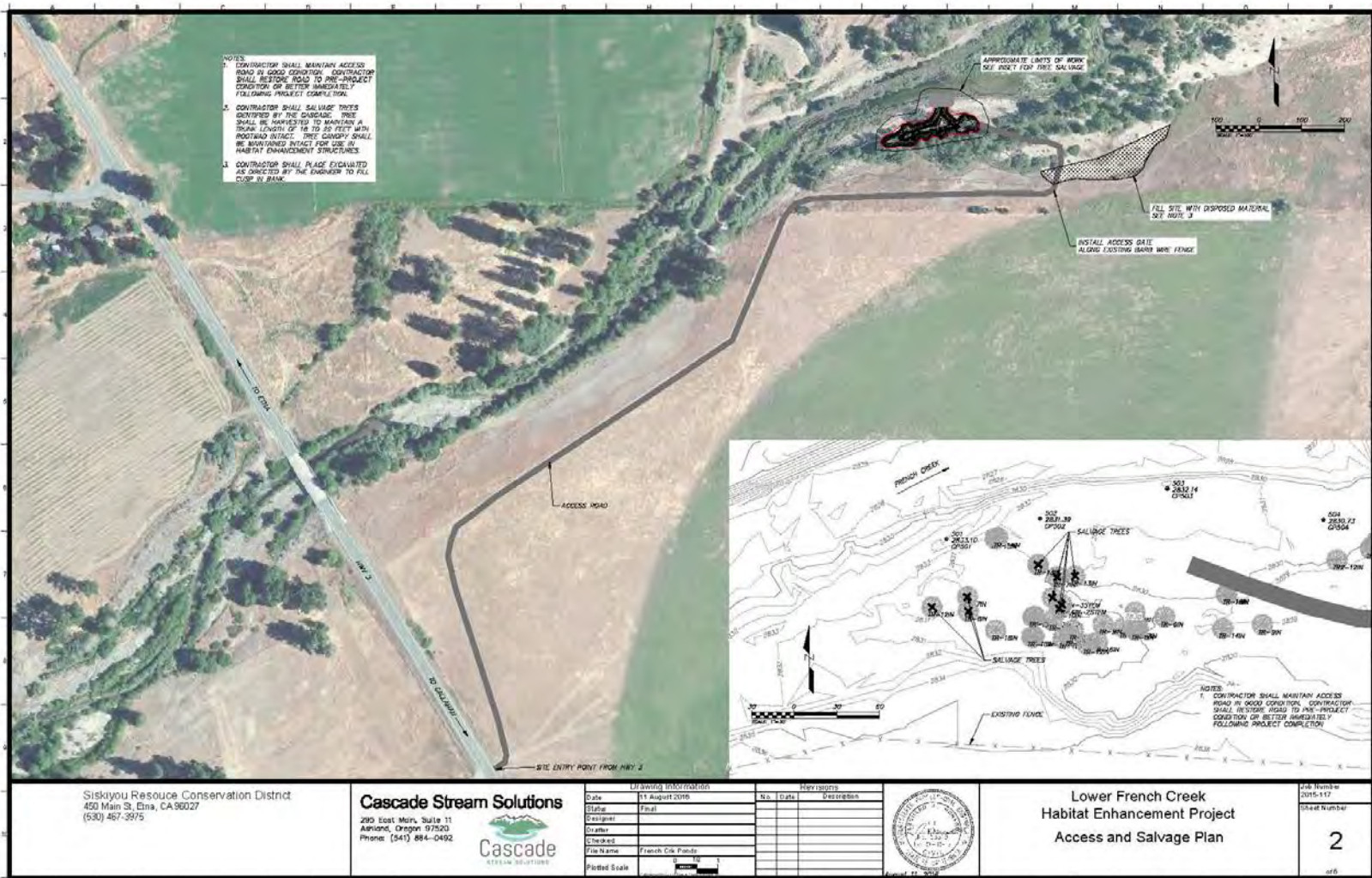
Cascade Stream Solutions  
295 East Main, Suite 11  
Ashland, Oregon 97520  
Phone: (541) 884-0492

Drawing Information		Revisions	
Date:	11 August 2016	Rev.	Justification
Status:	Final		
Designer:			
Drafter:			
Checked:			
File Name:	French Crk Plans		
Project State:	Oregon		

Lower French Creek  
Habitat Enhancement Project  
Title Sheet

Job Number  
2215-117  
Sheet Number  
**1**  
of 6

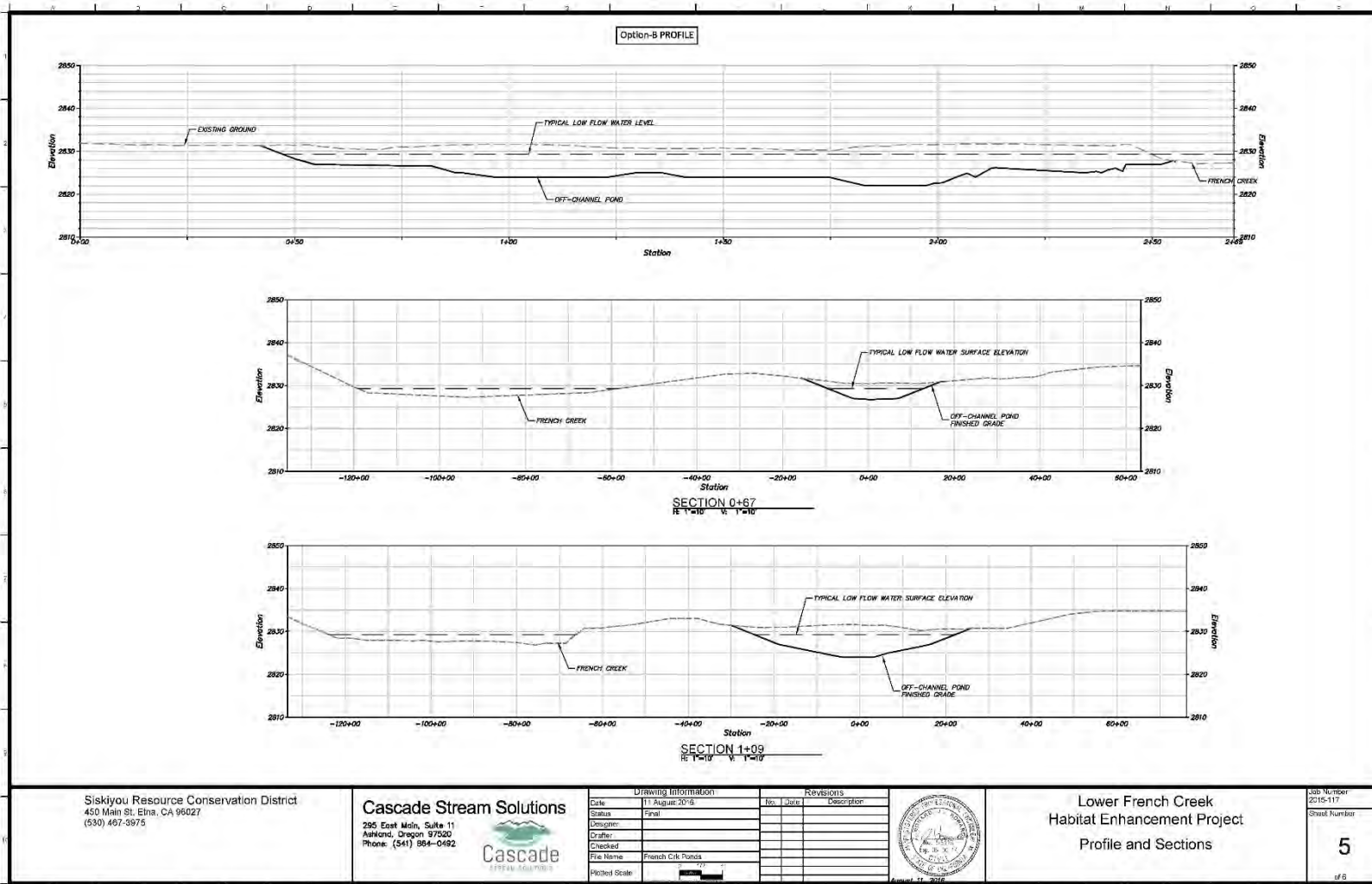




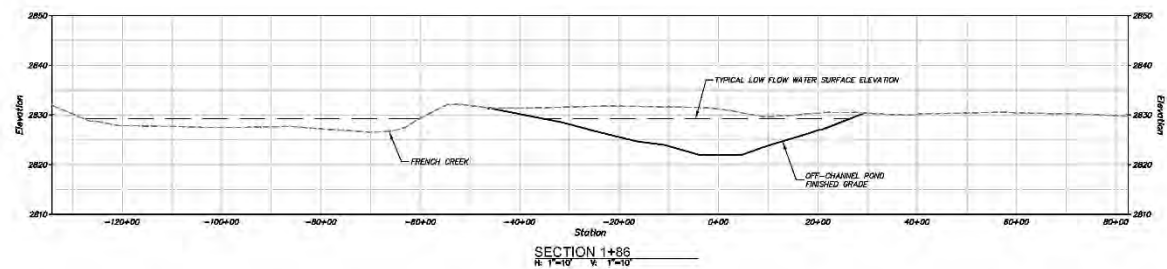
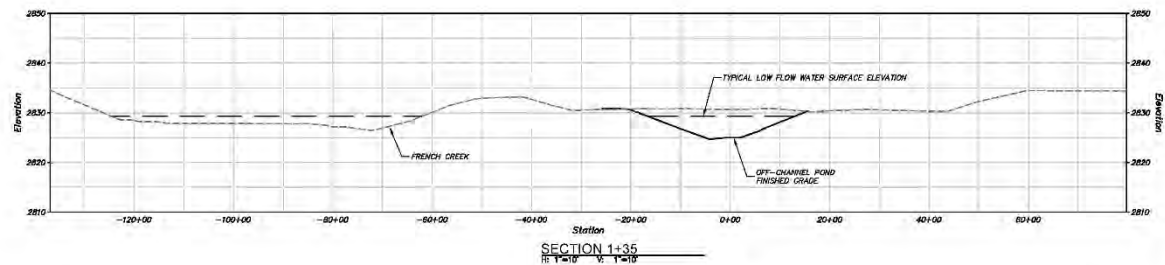












Siskiyou Resource Conservation District  
450 Main St. Etna, CA 96027  
(530) 467-3975

### Cascade Stream Solutions

295 East Main, Suite 11  
Ashland, Oregon 97520  
Phone: (541) 964-0492



#### Drawing Information

Date	11 August 2018
Status	Final
Designer	
Checker	
File Name	French Ck Ponds
Plotted Scale	AS SHOWN

#### Revisions

No.	Date	Description



Lower French Creek  
Habitat Enhancement Project  
Sections

Job Number  
2215-117

Sheet Number

6

of 8

## Appendix D. Indian Trust Asset Coordination and Consultation

09/09/2016

### Indian Trust Assets Request Form (MP Region)

Submit your request to your office's ITA designee or to MP-400, attention Deputy Regional Resources Manager.

**Date: 9/9/2016**

<b>Requested by</b> (office/program)	Tyler Hammersmith – KBAO
<b>Fund</b>	
<b>WBS</b>	
<b>Fund Cost Center</b>	
<b>Region #</b> (if other than MP)	
<b>Project Name</b>	Lower French Creek Off-Channel Habitat Development
<b>CEC or EA Number</b>	2016-EA-007
<b>Project Description</b> (attach additional sheets if needed and include photos if appropriate)	The Siskiyou RCD proposes to construct an off-channel pond with coarse woody debris structures and associated riparian vegetation in the floodplain of lower French Creek to restore natural channel form and function and increase the carrying capacity and condition of juvenile coho salmon. The pond has been designed to allow volitional fish access year round to deep, low velocity cold-water habitat while minimizing the probability of sediment deposition. The Scott River Water Trust has performed water leasing transactions that augment flows through this reach every year since 2007. Project partners include the U.S. Fish and Wildlife Service and California Trout.
<b>*Project Location</b> (Township, Range, Section, e.g., T12 R5E S10, or Lat/Long cords, DD-MM-SS or decimal degrees). Include map(s)	The project site is located on French Creek 0.5 miles upstream of its confluence with the Scott River and encompasses approximately 0.1 acres on the south bank of French Creek. USGS Quad McConaughy Gulch - PLSS T 41N, R 09W, Sec. 11, SW 1/4

  
Signature

Tyler Hammersmith  
Printed name of preparer

9/22/16  
Date

09/09/2016

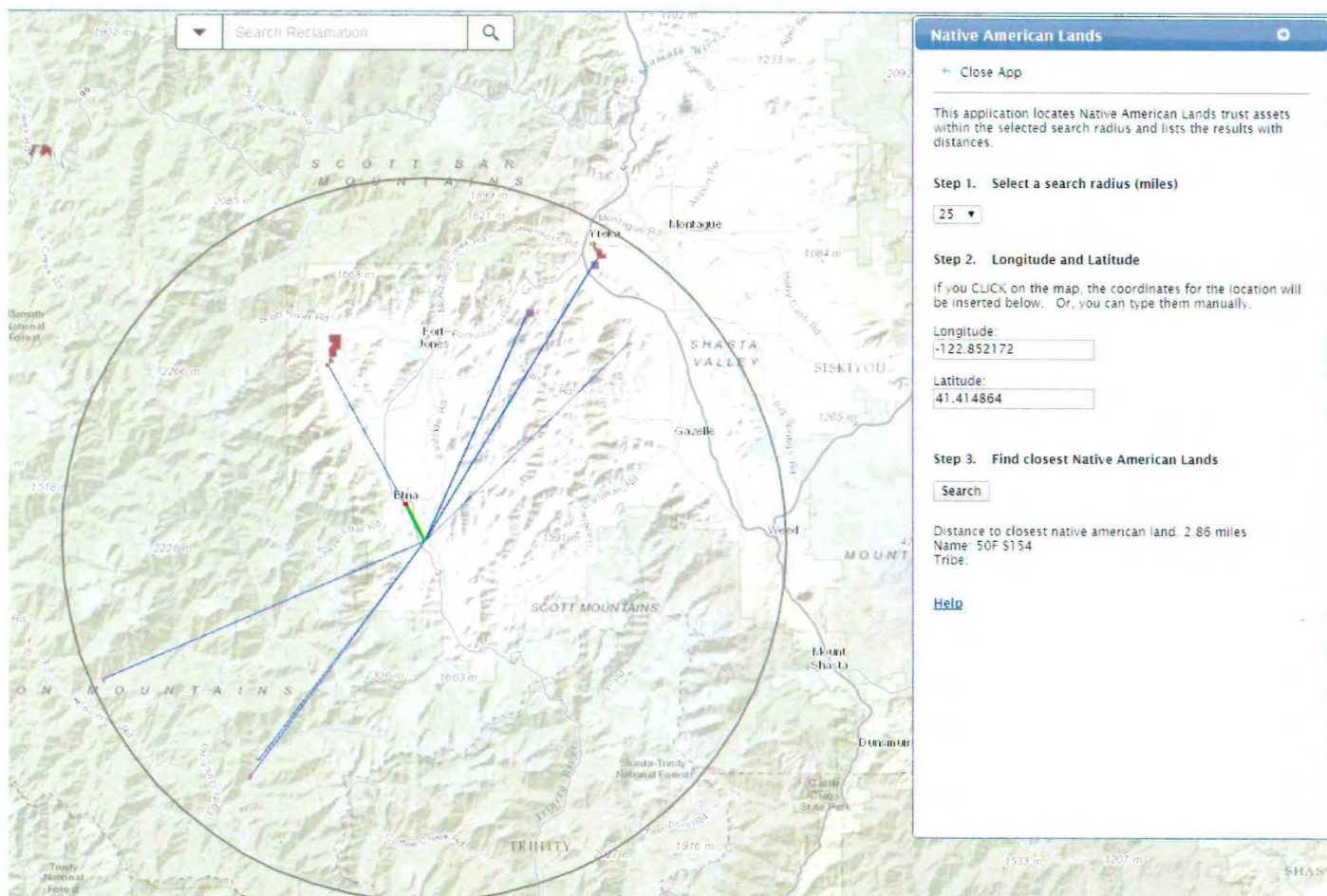
**ITA Determination:**

The closest ITA to the proposed **Lower French Creek Off-Channel Habitat Development** activity is the 50F S154 about 2.86 miles to the Northwest (see attached image).

Based on the nature of the planned work it does not appear to be in an area that will impact Indian hunting or fishing resources or water rights nor is the proposed activity on actual Indian lands. It is reasonable to assume that the proposed action will not have any impacts on ITAs.

	Kristen L. Hiatt	9/22/16
Signature	Printed name of approver	Date

09/09/2016





## Appendix E. USACOE 404 Nationwide Permit #27 Coordination,



Johnson, David <david\_e\_johnson@fws.gov>

### Lower French Creek Off Channel Habitat Project

5 messages

Johnson, David <david\_e\_johnson@fws.gov>  
To: Holly N. Costa@usace.army.mil

Wed, Apr 13, 2016 at 12:35 PM

Hello Holly,

The U.S. Fish and Wildlife Service is proposing to fund an off channel habitat project on Lower French Creek with a private landowner. The project description, maps, photos, and design plans are included in the attachments below.

ESA (FWS) consultation, NEPA, and Cultural Resource Compliance for this project have been complete. ESA compliance with NMFS has been initiated, 401 permit to the state has been submitted, and the 1600 permit with the state is in development.

The proposed project is expected to result in a net increase in aquatic resource function, improve habitat for coho salmon and other anadromous fish species. Through the development of this project and previously completed projects on his property, The landowner has demonstrated a strong commitment to restoring the French Creek and Scott River watersheds. Therefore, I feel that this project is consistent with and be covered by the Nationwide 27 permit for aquatic habitat restoration, establishment, and enhancement activities.

It is our understanding that a pre-construction notification is not required in this case, but we wish to share with you information on our activities. We are not requesting an action on your part unless you feel it is required.

Thank you for your time and please let me know if you have any questions.

Dave

#### 5 attachments

Lower French Creek Off Channel Habitat 404 notification.docx  
17K

Attachment 4\_ Intermediate Plans 65pct copy.pdf  
2046K

Project Area Photos.docx  
2468K

Project activity map.pdf  
748K

Project Location Map.pdf  
1453K

Costa, Holly N SPN <Holly.N.Costa@usace.army.mil>  
To: "Johnson, David" <david\_e\_johnson@fws.gov>

Wed, Apr 13, 2016 at 3:43 PM

Hi Dave,

Nationwide Permit 27 does not require pre-construction notification for activities that have a "binding stream enhancement or restoration agreement or wetland enhancement, restoration, or establishment agreement between the landowner and the U.S. FWS, NRCS, FSA, NMFS, NOS, USFS or their designated state cooperating agencies". Is there such an agreement for this project? If so, a copy of that agreement is required to be submitted to this office under the reporting requirements of NWP 27. Otherwise, I believe it is still subject to the usual notification and verification requirements of the Nationwide Permit Program.

Please call me if you want to discuss. I will be leaving early today (in about 15 minutes) but will be in all day tomorrow



## **Landowner Agreement, and General Permit Conditions**

and Friday.

Thanks,

Holly

\*\*\*\*\*

Holly Costa  
U.S. Army Corps of Engineers  
San Francisco District Regulatory Division  
North Branch Chief  
1455 Market Street, 16th Floor  
San Francisco, CA 94103  
(415) 503-6780  
(415) 503-6690 (fax)

<http://www.sph.usace.army.mil/Missions/Regulatory.aspx>  
[Quoted text hidden]

---

**Johnson, David** <david\_e\_johnson@fws.gov>  
To: "Costa, Holly N SPN" <Holly.N.Costa@usace.army.mil>

Thu, Apr 14, 2016 at 8:42 AM

Good morning Holly,  
It is standard operating procedure for the USFWS's Partners Program to obtain a signed agreement from the landowner when entering into a project on private lands. Once I have the landowners signature, I will send you a copy of the landowner agreement.

Thank you,

Dave  
[Quoted text hidden]

---

**Johnson, David** <david\_e\_johnson@fws.gov>  
To: "Costa, Holly N SPN" <Holly.N.Costa@usace.army.mil>

Wed, May 4, 2016 at 12:50 PM

Hi Holly,  
Attached is the signed restoration agreement between the landowner and the U.S. FWS for the Lower French Creek Off-Channel Habitat Project. As per your April 13th email, it is my understanding that no other actions regarding the Nationwide Permit 27 are required for this project. Please let me know if this is not the case.


Thank you,

Dave  
[Quoted text hidden]

--  
David Johnson  
USFWS Partners Program Biologist  
1829 S. Oregon St.  
Yreka, CA 96097

530-841-3106

---

 **Spencer LOA.pdf**  
308K

---

**Johnson, David** <david\_e\_johnson@fws.gov>  
To: Mike Edwards <mike\_edwards@fws.gov>

Wed, Jun 1, 2016 at 4:29 PM

Hi Mike,

RECEIVED

APR 25 2016

Landowner Agreement No: FIGAC00356

YREKA FWO

**PARTNERS FOR FISH AND WILDLIFE PROGRAM  
LANDOWNER AGREEMENT**

This Landowner Agreement (Agreement), dated 4 /18/ 2016, between John Spencer, the Siskiyou Resource Conservation District, and the U.S. Fish and Wildlife Service (USFWS) is entered into pursuant to authority contained in the Partners for Fish and Wildlife Act (P.L. 109-294), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-j), as amended. This project was selected because the Landowner shares a common objective with the USFWS to restore habitat for the benefit of Federal trust species on private lands, and the project supports priority actions identified in the Regional Partners for Fish and Wildlife (Partners) Program Strategic Plan.

John Spencer, 3116 E. Callahan Road, Etna CA, 96027, hereby agrees to participate with the USFWS in conducting certain wildlife management practices on lands owned or managed in Siskiyou County, State of California, described as follows: all of, or within, Township 41N/ Range 09W/ Section 11.

In signing this Agreement, the Landowner joins as a participant in a wildlife habitat improvement program and grants to the USFWS and any other cooperators signing this Agreement authority to complete the habitat improvement project or the Landowner may personally carry out management activities with financial or material support as described in attached Exhibit A. Any donation of supplies or equipment to the Landowner for carrying out the habitat improvements is included in Exhibit A. The activities conducted pursuant to this Agreement are not to replace, supplement or otherwise contribute to any mitigation or compensation that may be required of the Landowner or other parties as a result of any mandated requirements.

The term of this Agreement (also referred to as the habitat retention period) will be completed on 9/30/ 2026. This Agreement may be modified at any time by mutual written consent of the parties. It may be terminated by either party upon 30 days advance written notice to the other party(ies). However, if the Landowner terminates the Agreement before its expiration, or if the Landowner should materially default on these commitments, then the Landowner agrees to reimburse the USFWS prior to final termination for the prorated costs of all habitat improvements placed on the land through this Agreement. For these purposes, the total cost of the habitat improvements to the United States is agreed to be \$ 25,795.00.

**Landowner:**

The Landowner or his/her land manager, with legal authority over land management decisions, guarantees ownership of the above-described land and warrants that there are no outstanding rights that interfere with this Landowner Agreement.

The Landowner will notify the USFWS and the other cooperating partners of planned or pending changes in ownership. A change of ownership shall not change the terms of this Agreement. The Agreement and terms shall be in effect on the described land for the term of the Agreement.

The Landowner agrees to allow access (with advance notice) to the USFWS and the other cooperating partners to implement the project described in Exhibit A, and to monitor project

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success.

The Landowner retains all rights to control trespass and retains all responsibility for taxes, assessments, and damage claims.

During the habitat retention period, the landowner must allow the habitat restored under this award to remain in place without interference unless modifications to the restored habitat are agreed upon by the USFWS and other cooperating partners. The Landowner will not be responsible for replacing wildlife habitat developments that are damaged or destroyed by severe acts of nature.

At the end of the habitat retention period, the habitat improvement project will become the sole property and complete responsibility of the Landowner. There shall be no obligation to the USFWS after the term of the Agreement has expired.

The Landowner will be responsible for securing any necessary permits. Technical advice and support will be provided by participating agencies in the application for and securing of the permits. The Landowner agrees to identify USFWS' contribution to the project during public presentations, reports, or other information published about the project, as appropriate.

The Landowner(s) will be free to remove any structure at his/her own expense at the termination of the Agreement; however, the Agreement does not supersede any Local, State, or Federal regulation that would apply to the removal of any such structures.

#### **USFWS:**

The USFWS will work with the Landowner and any other cooperators signing this Agreement, throughout the entire Agreement term to support actions needed to ensure that the project is designed and constructed per the Agreement and functions as intended.

The USFWS, its agents, or assignees will provide advanced notice prior to accessing the Landowner's property to implement the project described in the work plan, and to monitor project success.

The USFWS assumes no liability for damage or injury other than that caused by its own negligence, on the above acreage. The USFWS does not assume jurisdiction over the premises by this Agreement.

**Spatial Information Sharing:** In accordance with the Privacy Act of 1974, permission must be obtained from the Landowner before any personal information can be released. The only information that can be shared is payment information that is authorized by law. Therefore, Landowner consent is requested to allow for sharing of spatial information about this project solely with conservation cooperators providing technical or financial assistance with the restoration, enhancement or management of fish and wildlife habitat.



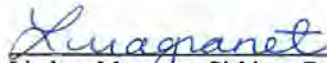
I, the Landowner, consent to having spatial information about this project shared with other conservation cooperators

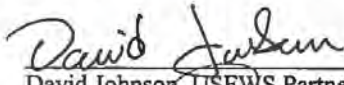
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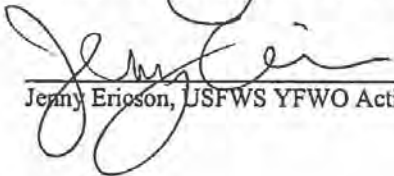
☐ I, the Landowner, do NOT wish to have any spatial information about this project shared with other conservation cooperators

**Signatures:**

  
John Spencer, Landowner 4-20-16  
Date

  
Lindsay Magranet, Siskiyou Resource Conservation District 4-20-16  
Date

  
David Johnson, USFWS Partners Program Biologist 4/28/16  
Date

  
Jenny Ericson, USFWS YFWO Acting Field Supervisor 5/3/16  
Date

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**EXHIBIT A**

*John Spencer*

The habitat improvements described below are agreed to by ~~Raymond Platt~~, the USFWS, and the Siskiyou Resource Conservation District in a Landowner Agreement dated 4/18/2016.

**Description of Habitat Improvement Project and Objectives:** The legacy effects of historic practices including beaver removal, mining, logging, road building, and agriculture have significantly altered the condition of the Scott River and tributaries. A consequence of the channel and riparian alteration is a significant reduction in channel complexity and floodplain connectivity. This project will address these resource concerns and restore habitat for coho salmon and other anadromous species by creating off channel habitat in lower French Creek. The off channel habitat will create deep, slow velocity habitats with complex cover providing rearing habitat during all seasons of the year.

Specifically, this project will excavate a pond with a single, flatwater access channel that will connect to a glide on French Creek. The connection point, where the access channel keys through the bank has been designed to ensure volitional fish passage while minimizing scour and sediment deposition. The pond is designed to be a minimum of 8 feet deep from the base flow water surface elevation to preserve volume year-round and allow for thermal stratification. Root-wads and brush bundles will be installed within the pond to provide shelter and complexity. Riparian cuttings (willow and cottonwood) will be planted along the edge of pond and trench.

**USFWS will:**

USFWS staff has worked with the project partners to select the most appropriate and biologically beneficial location for the project and assisted in project design. USFWS staff also will also monitor project implementation to ensure the project is being implemented in a manner that maximizes the objectives of the USFWS and the other project partners.

**The Landowner(s) will:**

Work collaboratively with the USFWS and other cooperators to implement the project described in Exhibit A.

**The Siskiyou RCD will:**

1. Serve as administrator of contracts, services, materials acquisitions, and disbursement of the USFWS's cost-share for activities relating to project completion.
2. Work cooperatively with the USFWS to carry out this agreement to participate in fish and wildlife habitat restoration activities to be conducted on private lands that are approved by the USFWS.
3. Receive prior approval from the USFWS for individual projects. Coordinate with the USFWS on project design and implementation phases of the project(s).
4. Provide landowners with technical assistance in preparing applications required to obtain necessary Federal, State, and local permits relating to the project.
5. Coordinate with all project participants, including the landowner(s), and notify each participant that implementation activities can begin once notification is received from the Partners Program Biologist that all appropriate local, State, and Federal permits and clearances have been obtained.

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6. Administer this Cooperative Agreement and any other contracts or services required to successfully complete the project.

**Additional information as required for the project:**

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**Budget Table:**

Object Class Categories <sup>a</sup>	Partners				
	Cal Trout	USFWS Partners Program	BOR Coho Habitat Restoration Program	Siskiyou RCD	Totals
Personnel	\$	\$10,250.00	\$17,833.20	\$	\$28,083.20
In Kind	\$	\$	\$	\$4,180.00	\$4,180.00
Equipment	\$	\$	\$	\$	\$
Supplies/Materials	\$8,580.00	\$4,750.00	\$	\$1,200.00	\$14,530.00
Contractual	\$	\$8,450.00	\$43,450.00	\$	\$51,900.00
Operating Expenses	\$	\$	\$6,881.25	\$	\$6,881.25
Administration	\$	\$2,345.00	\$6,816.44	\$	\$9,161.44
					\$
<b>Totals</b>	<b>\$8,580.00</b>	<b>\$25,795.00</b>	<b>\$74,980.89</b>	<b>\$5,380.00</b>	<b>\$114,735.89</b>
					\$

<sup>a</sup> The total cost-share by the Cooperators, the USFWS, and the Landowner must remain the same, however allocations by category may be redistributed upon prior approval by the USFWS.

Any work to be completed may be modified with the mutual agreement of the aforementioned parties.

**Budget Narrative:**

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## Nationwide Permit General Conditions

1. Navigation
2. Aquatic Life Movements
3. Spawning Areas
4. Migratory Bird Breeding Areas
5. Shellfish Beds
6. Suitable Material
7. Water Supply Intakes
8. Adverse Effects From Impoundments
9. Management of Water Flows
10. Fills Within 100-Year Floodplains
11. Equipment
12. Soil Erosion and Sediment Controls
13. Removal of Temporary Fills
14. Proper Maintenance
15. Single and Complete Project
16. Wild and Scenic Rivers
17. Tribal Rights
18. Endangered Species
19. Migratory Birds and Bald and Golden Eagles
20. Historic Properties
21. Discovery of Previously Unknown Remains and Artifacts
22. Designated Critical Resource Waters
23. Mitigation
24. Safety of Impoundment Structures
25. Water Quality
26. Coastal Zone Management
27. Regional and Case-By-Case Conditions
28. Use of Multiple Nationwide Permits
29. Transfer of Nationwide Permit Verifications
30. Compliance Certification
31. Pre-Construction Notification

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/ or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

**1. Navigation.** (a) No activity may cause more than a minimal adverse effect on navigation. (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States. (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the

structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

**2. Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

**3. Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

**4. Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

**5. Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

**6. Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

**7. Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

**8. Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

**9. Management of Water Flows.** To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

**10. Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

**11. Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

**12. Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

**13. Removal of Temporary Fills.** Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

**14. Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

**15. Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

**16. Wild and Scenic Rivers.** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

**17. Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

**18. Endangered Species.** (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed. (b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect federally listed endangered or threatened species or designated critical habitat, the pre-construction notification must include

the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWP. (e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. (f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.

**19. Migratory Birds and Bald and Golden Eagles.** The permittee is responsible for obtaining any "take" permits required under the U.S. Fish and Wildlife Service's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such "take" permits are required for a particular activity.

**20. Historic Properties.** (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. (b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary. (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National

Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed. (d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps. (e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/ THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

**21. Discovery of Previously Unknown Remains and Artifacts.** If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

**22. Designated Critical Resource Waters.** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment. (a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including



wetlands adjacent to such waters. (b) For NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

**23. Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal: (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. (c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332. (1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment. (2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered. (3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2)–(14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). (4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided. (5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan. (d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment. (e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs. (f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance,

and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses. (g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management. (h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

**24. Safety of Impoundment Structures.** To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

**25. Water Quality.** Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

**26. Coastal Zone Management.** In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

**27. Regional and Case-By-Case Conditions.** The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

**28. Use of Multiple Nationwide Permits.** The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

**29. Transfer of Nationwide Permit Verifications.** If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

\_\_\_\_\_  
(Transferee)

\_\_\_\_\_  
(Date)

**30. Compliance Certification.** Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include: (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions; (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and (c) The signature of the permittee certifying the completion of the work and mitigation.

**31. Pre-Construction Notification—(a) Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either: (1) He or she is notified in writing



by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or (2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information: (1) Name, address and telephone numbers of the prospective permittee; (2) Location of the proposed project; (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans); (4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate; (5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan. (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National

Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act. (c) *Form of Pre-Construction Notification*: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used. (d) *Agency Coordination*: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP's and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. (2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWP's, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5. (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act. (4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

# Appendix F. California State Water Resources Board Section 401 Water Quality Certification Coordination



## North Coast Regional Water Quality Control Board

October 6, 2016

Mr. Preston Harris  
Siskiyou Resource Conservation District  
P.O. Box 268  
Etna, CA 96027

Dear Mr. Harris:

Subject: Notice of Applicability (NOA) for Coverage under the State Water Resources Control Board General 401 Water Quality Certification Order for Small Habitat Restoration Projects SB12006GN

File: Lower French Creek Off-Channel Habitat Project; CW- 827890;  
WDID 1A161171WNTR

This letter is to certify coverage of Siskiyou Resource Conservation District's *Lower French Creek Off-Channel Habitat Project* (project) under the General 401 Water Quality Certification Order for Small Habitat Restoration Projects; Order No. SB12006GN (General 401 Order). The project will create a 0.25 acre off-channel pond to provide cold-water refugia and rearing habitat for coho salmon and other anadromous fish during the summer months and winter high-flow periods.

### Background

On August 8, 2016, the North Coast Regional Water Quality Control Board (Regional Water Board) received a Notice of Intent (NOI) from the Siskiyou Resource Conservation District (applicant) to comply with the terms of, and obtain project coverage under, the General 401 Order for the project.

### Project Location

The project is located on French Creek, approximately 0.5 miles upstream of the confluence with the Scott River, within the Scott River Hydrologic Unit 105.42. Coordinates of the project are 41.4142° N, 122.8531° W.

JOHN W. CONNETT, CHAIR | MATTHIAS ST. JOHN, EXECUTIVE OFFICER

5560 Skyline Blvd., Suite A, Santa Rosa, CA 95403 | [www.waterboards.ca.gov/northcoast/](http://www.waterboards.ca.gov/northcoast/)

REC'D 10/10/16

### Project Description

The Scott River watershed supports anadromous fish runs for Chinook salmon, coho salmon, and steelhead trout. Legacy effects of past management activities have significantly degraded habitat in the Scott River and its tributaries. Reconnecting the channel to the floodplain has been identified as a high priority for coho recovery. The construction of an off-channel pond with introduced coarse woody debris and riparian vegetation in lower French Creek could increase the carrying capacity for coho salmon during the critical periods of summer and winter rearing.

This project will create a 0.25 acre off-channel pond. The off-channel pond will be excavated to a minimum depth of eight feet deep from the base flow water surface elevation to preserve year-round intercept of groundwater and to allow for thermal stratification. Pond excavation will result in approximately 8,000 cubic yards of spoils (cobble, gravel, and sand) and the salvage of 9 alder and cottonwood trees ranging from seven to 14-inches in diameter. Up to 25 rootwads or pieces of large wood will be installed in the pond to provide shelter and increase habitat complexity. Root wads and large wood will be anchored by burying a portion (up to 50 percent) of the log in the bank of the pond. Brush bundles will then be pinned under the rootwads and large wood to increase shelter and habitat complexity.

Willow sprigs will be planted along the edges of the pond to reduce erosion and to eventually create overhanging vegetation. A single, approximately 60-foot long, flat-water access channel will be excavated to connect the pond to French Creek. To minimize erosion, large cobbles ranging from four to ten inches in diameter will be used to armor the access channel and approximately 50 feet of the river bank downstream from the access channel.

Heavy equipment access and operation will largely occur on existing dirt roads; however, heavy equipment will travel through approximately 100 feet of the riparian corridor and will result in the loss of up to eight alders and/or willows. Heavy equipment includes a 28,000 to 35,000 lb. excavator and a 10 yard dump truck. No mechanized equipment will operate within the wetted channel. All mechanized equipment fueling, servicing, and overnight parking will occur at least 200 feet from any wetted channel. All machinery will be thoroughly inspected and cleaned prior to project implementation.

Excavation of the pond, installation of the large wood and brush bundles, and 95 percent of the flat water access channel will be completed before the pond is connected to the creek. A small plug approximately 25 square feet will be left intact to separate the pond from French Creek. Once all other project construction has been completed the plug will be removed using an excavator. The excavator arm will reach into the wetted channel to remove the plug but the excavator itself will not enter the wetted channel. The excavation of the pond and the access channel and the final connection of the pond to the creek will occur during the driest time of year. A silt fence will be in place during final connection to prevent any sediment from entering French Creek. Exposed cutbanks and the access channel will be covered with large cobble (four to ten inch diameter) to minimize erosion.



All spoils generated by the project will be deposited and stabilized at an upland location on the landowner's property. Appropriate erosion control best management practices (BMPs) will be implemented to mitigate the threat of a sediment discharge to French Creek. A low-level and localized turbidity spike may occur when the pond is connected to the main channel of French Creek.

Project Size

The total of ground disturbance associated with the project is estimated to be 0.675 acres and 50 linear feet. The proposed project size does not exceed what is allowed for coverage under the General 401 Order and associated California Environmental Quality Act (CEQA) categorical exemption (15333).

Project Associated Discharge

The discharge of material into waters of the state resulting from the project includes those associated with the individual logs and less than 0.5 yards of incidental sediment discharge associated with bank disturbance.

Project Time Frame

Proposed project start date: September 1, 2016

Expected date of completion: October 15, 2016

Seasonal work window: September 1 – October 15

Note: This certification authorizes project related activities and discharges for up to five years. If the applicant is unable to complete the project in 2016, they shall notify the Regional Water Board in writing of the proposed implementation time frame prior to subsequent seasonal work windows.

Agency Permits

The applicant has also submitted applications for permitting and/or coverage of:

- a. Army Corp of Engineers Section 404 Permit – Nationwide Permit 27 – Aquatic Habitat Restoration, Establishment, and Enhancement Activities pursuant to Section 404 of the Clean Water Act
- b. California Department of Fish & Wildlife – Habitat Restoration and Enhancement Act

Notice of Applicability & Project Determination

Regional Water Board staff has determined that the proposed activities as described in the NOI are categorically exempt from CEQA review and may proceed under the General 401 Order.

Receiving Water: French Creek, Scott River Hydrologic Unit 105.42

Total Impacts: Area temporarily impacted: 0.675 acres of floodplain  
Length temporarily impacted: 50 feet of stream bank

Excavation Volume: 8,000 cubic yards

Discharge Volume: Up to 25 root wads and/or large wood pieces

Latitude/Longitude: 41.4142° N, 122.8531° W

#### Monitoring and Reporting

The purpose of the project is to improve the health and function of French Creek for aquatic organisms. The goal is to provide summer cold water refugia and over-wintering habitat for juvenile coho salmon. Measurable performance standards include water quality suitable to coho salmon juveniles and the presence of coho salmon juveniles. Project monitoring will consist of both biological and physical monitoring. Biological monitoring will include direct observational dive surveys for fish utilization, and physical monitoring will include temperature, dissolved oxygen, and water surface elevation measurements. Additionally, pre- and post- project implementation photo monitoring will be conducted.

As required in Section B, Item 4, of the *General 401 Order*, monitoring reports shall be submitted documenting the achievement of performance standards and project goals. Following the completion of each seasonal work period, and then on years one, three, and five following project completion, a report will be submitted to the Regional Water Board. This report will include the findings that result from pre- and post-project monitoring. These findings should indicate the achievement of performance standards that are relative to the project goals. Each report will include the following information:

- a. Summary of findings
- b. Identification and discussion of problems with achieving performance standards
- c. Proposed corrective measures as needed (requires Regional Water Board approval)
- d. Monitoring Data

A Notice of Completion (NOC) shall be submitted by the applicant no later than 30 days after the project has been completed. A complete NOC includes at a minimum: photographs with a descriptive title, the date each photograph was taken, the name of the photographic site, the WDID number indicated above, and success criteria for the project. The NOC shall demonstrate that the project has been carried out in accordance with the project description as provided in the applicant's NOI. Please include the project name and WDID number with all future inquiries and document submittals. Document submittals shall be made electronically to: [NorthCoast@waterboards.ca.gov](mailto:NorthCoast@waterboards.ca.gov).

The State Water Resources Control Board General 401 Order can be found here: [http://www.waterboards.ca.gov/water\\_issues/programs/cwa401/docs/generalorders/shrpcert032713.pdf](http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/shrpcert032713.pdf)

Please call Jake Shannon at (707) 576-2673 if you have any questions.

Sincerely,

 Digitally signed by  
Fred Blatt  
for  
Date: 2016.10.06  
11:44:32 -07'00'  
  
Matthias St. John  
Executive Officer

161006\_JJS\_ef\_Lower French Creek Off-Channel Habitat Project\_SHRP NOA

Original: Preston Harris, Siskiyou Resource Conservation District  
[preston@scottwatertrust.org](mailto:preston@scottwatertrust.org)

cc: Janae Scruggs, California Department of Fish & Wildlife  
[janae.scruggs@wildlife.ca.gov](mailto:janae.scruggs@wildlife.ca.gov)  
Cameron Purchio, Army Corps of Engineers  
[cameron.r.purchio@usace.army.mil](mailto:cameron.r.purchio@usace.army.mil)  
David Johnson, U.S. Fish & Wildlife Service  
[david\\_e\\_johnson@fws.gov](mailto:david_e_johnson@fws.gov)  
T. Hammersmith, U.S. Bureau of Reclamation  
[thammersmith@usbr.gov](mailto:thammersmith@usbr.gov)

## Appendix G. U.S Fish and Wildlife Yreka, California Field Office Intragency Endangered Species Consultation Coordination

ESA Section 7 Compliance matrix for projects funded by the Partners for Fish & Wildlife and Fisheries, and other sources within the Klamath program area (to be completed for each project).

Project# \_\_\_\_\_ Date 10/5/2016

Project Lower French Creek off-channel Habitat Project

Project Location (Quad name, TRS) Quad: McConaughy Gulch, CA, T41N; R09W; Section 11

**CRITERION** **CHECK** **ACTION** **NOTES**

### **PLANTS**

#### **Gentner's Fritillary (E)**

<b>A)</b> Project is not within a designated recovery unit.	<b>X</b>	Proceed.	
Project is within a designated recovery unit and in habitat suitable for Gentner's fritillary (check soils maps).		Have the project area surveyed for Gentner's fritillary by a qualified botanist following the "Pre-Project Survey Protocol for <i>Fritillaria gentneri</i> " (USFWS 2013). The optimal surveying period is late March through early May. Go to <b>B</b> .	
<b>B)</b> Gentner's fritillary is confirmed or suspected as being present.		Follow these PDs: 1. All habitat restoration actions will be conducted between October 1st and December 31st when Gentner's fritillary is dormant. If surveys determine that Gentner's fritillary is not present at the project site, this seasonal restriction will be lifted. 2. To avoid unnecessary ground disturbance or crushing of plants, all restoration actions, excluding chipping, will be conducted by hand and will not utilize heavy equipment. The use of chippers and chip vans will be restricted to existing roads. 3. Slash piles will be placed in natural forest openings where Gentner's fritillary are less likely to occur. Slash piles will be kept small (< 5 foot diameter) and will be scattered throughout the treatment area decreasing the likelihood of impacting Gentner's fritillary plants. 4. If Gentner's fritillary plants are found, they will not be disturbed and physical conditions (shade, soil, hydrology) in the immediately surrounding area will be maintained. The location of newly discovered populations will be recorded and data submitted to appropriate state and federal agencies so that databases can be	

PLANTS



	<p>updated.</p> <p>5. When projects involve planting or seeding for soil stabilization or to enhance habitat, only native vegetation will be used.</p> <p>6. Projects involving livestock watering facilities or fences will be designed to avoid compaction and/or damage to sensitive soils, slopes, or vegetation due to congregating livestock.</p> <p>7. Access roads for restoration activities will not be constructed through known or suspected Gentner's fritillary populations. In addition, road-related projects will be consistent with guidance contained in the Handbook for Forest and Ranch Roads (Weaver and Hagans, 1994), or other similar guidance.</p> <p>8. To prevent the introduction or spread of weedy species, boots, clothing, equipment, and vehicles will be cleaned and/or washed prior to arrival on sites where Gentner's fritillary may occur.</p>	
Gentner's fritillary is not identified or suspected as being present on the project site.	Proceed.	

## PLANTS

**slender Orcutt grass (T)**

A) Project does not occur within 500 ft (152 m) of a vernal pool.	X Proceed.	Project occurs outside of designated critical habitat for slender orcutt grass
Project occurs within 500 ft (152 m) of a vernal pool.	Have the project area surveyed for slender Orcutt grass by a qualified botanist in May to July. Go to B.	
B) Surveys do not show slender Orcutt grass presence.	Follow these PDSs: 1. Restoration activities with the exception of prescribed fire must be at least 500 feet (152 m) away from any population of slender Orcutt grass. 2. Prescribed fires may only be conducted in vernal pool areas in the early spring before the plants have germinated or well after seed set in the fall. As slender Orcutt grass usually occurs on the upper margins of vernal pools, they are more subject to fires burning to the edges of vernal pools as compared to pool bottom species, which are often protected because fuel loads in the pool bottoms are sparse. 3. Projects in or adjacent to vernal pools will avoid disrupting the existing hydrology including the impermeable, sub-surface soil layer. The movement of soils into pools, and the use of any pesticides should be minimized or avoided. Due to the fragile soil layers that assist in the formation and function of vernal pools, care will be taken to avoid unnecessary pedestrian or vehicular traffic through sensitive sites, even in the dry season. 4. To prevent the introduction or spread of weedy species, boots, clothing, equipment, and vehicles will be cleaned and/or washed prior to arrival on sites where slender Orcutt grass may occur.	
Surveys show slender Orcutt grass presence.	Follow these PDSs: 1. All YFWO restoration activities and approaches, with the exception of prescribed fire, must be at least 500 ft (152 m) away from any population of slender Orcutt grass. 2. Prescribed fires may only be conducted in vernal pool areas in	

PLANTS

	<p>the early spring before the plants have germinated or well after seed set in the fall.</p> <p><b>3.</b> The location of newly discovered populations will be recorded and data submitted to appropriate state and federal agencies so that databases can be updated.</p> <p><b>4.</b> Follow the above PDSs</p>	
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PLANTS

### Yreka phlox (E)

A) Project is not within 8 mi (13 km) (in all directions) of a line that extends from Paradise Craggy through Yreka to Etna.	X Proceed.	
Project is within 8 mi (13 km) (in all directions) of a line that extends from Paradise Craggy through Yreka to Etna.	Go to B.	
B) Project is not on ultramafic rock or soils derived from ultramafic rock.	Go to C.	
Project is on ultramafic rock or soils derived from ultramafic rock.	Have the project area surveyed for Yreka phlox by a qualified botanist. The optimal survey period is April 1-June 15. Go to D.	
C) Project is not within 500 ft (152 m) of a known population of Yreka phlox.	Proceed.	
Project is within 500 ft (152 m) of a known population of Yreka phlox.	Have the project area surveyed for Yreka phlox by a qualified botanist. The optimal survey period is April 1-June 15. Go to D.	
D) Survey does not find Yreka phlox plants.	Follow these PDs: 1. Only native vegetation will be used in plantings. 2. Projects designed to remove non-natives will be accomplished by hand pulling unless 50 feet (15 m) or more and downslope from nearest Yreka phlox plant Yreka phlox plants will be flagged at the periphery of the population and a biologist will be on site at the initiation of non-native plant removal projects. 3. All herbicides will be mixed at least 0.25 miles (0.40 km) away from known Yreka phlox populations and herbicide label restrictions will be followed. Only spot, wick, or backpack sprayers will be used to apply herbicides within 150 feet (~45 m) of the nearest Yreka phlox plant. Herbicides will not be used upslope or within 50 feet (15 m) of Yreka phlox plants. Unless using spot or wick herbicide application methods, wind speed must not be greater than 6 mph (~10 km/h) to avoid unintended drift of herbicides onto Yreka phlox plants. Applications must be timed so that the spray has dried before the next rain or snowfall. 4. Livestock watering facilities or fences will not be located in areas where compaction and/or damage may occur to sensitive	

PLANTS

	<p>soils, slopes, or vegetation due to congregating livestock.</p> <p>5. Access roads for restoration activities will not be constructed through known or suspected Yreka phlox populations. In addition, road-related projects will be consistent with guidance contained in the <i>Handbook for Forest and Ranch Roads</i>, or other similar guidance.</p> <p>6. Prevent the introduction or spread of weedy species, boots, clothing, equipment, and vehicles will be cleaned and/or washed prior to arrival on sites where Yreka phlox may occur.</p>	
Survey finds Yreka phlox plants.	<p>Follow these and the above PDSs:</p> <p>1. If Yreka phlox plants are found, they will not be disturbed and physical conditions (shade, soil, and hydrology) in the immediately surrounding area will be maintained. The location of newly discovered populations will be recorded and data submitted to appropriate state and federal agencies so that databases can be updated. .</p>	

## PLANTS

**INVERTEBRATES**

**vernal pool fairy shrimp (T), Conservancy Fairy shrimp (E), Vernal Pool Tadpole shrimp (E)**

A) Project does not occur within 500 ft (152 m) of a vernal pool (consult with Federal and State agencies, and species experts).	X Proceed.	
Project occurs within 500 ft (152 m) of a vernal pool.	<ol style="list-style-type: none"><li>1. All projects in or adjacent to vernal pools will avoid disrupting the impermeable, sub-surface soil layer, movement of soils that could result in depositing soils in pools, or the use of any herbicides or pesticides.</li><li>2. Care will be taken to maintain existing hydrological function and drainage patterns. Ground disturbing activities will consider seasonal drainage including the potential for overland flow.</li><li>3. Care will be taken to avoid pedestrian or vehicular traffic through vernal pools.</li></ol>	

INVERTEBRATES



**AMPHIBIANS****Oregon spotted frog (C)**

A) Project is not within the range of the species (northeastern Siskiyou County).	X	Proceed.	
Project is within the range of the species.		Go to B.	
B) Project is not in wetland or riparian habitat.		Proceed.	
Project is in wetland or riparian habitat.		<p>Follow these PDSS:</p> <ol style="list-style-type: none"> <li>1. When working in or near aquatic habitats field staff shall be vigilant and any frogs, tadpoles, or egg masses observed within project site boundaries shall be identified to species if possible. If species cannot be determined, activities that could adversely affect individual frogs, tadpoles, or eggs shall be delayed until the organism is identified or surveys conclude that the site is unoccupied by Oregon spotted frogs. If project site is occupied by Oregon spotted frogs, a separate consultation will be required.</li> <li>2. Soil and/or slope disturbances along stream channels will be avoided or minimized. Undisturbed vegetated buffer zones will be retained along stream channels to reduce sedimentation rates, channel instability, and aquatic habitat impacts.</li> <li>3. Projects will avoid facilitating the spread of introduced or exotic predators such as non-native warm water fish, brook trout, or bullfrogs that may prey on or compete with native aquatic species.</li> <li>4. Sedimentation and erosion controls will be implemented on site at all times during wetland restoration or creation activities to maintain the water quality of adjacent water sources.</li> <li>5. Bank stabilizing vegetation removed or altered because of restoration activities will be replanted with native vegetation and protected from further disturbance until new growth is well established. Native shrubs and trees will also be included in the reclamation of disturbed sites. Materials that pose a toxicity or pollution risk (broken asphalt, tires, etc.) will not be used. Concrete is not recommended for bank stabilization projects.</li> <li>6. Livestock crossings and off-channel livestock watering facilities will be designed to avoid compaction and/or damage may occur to sensitive soils, slopes, or vegetation due to congregating livestock.</li> </ol>	

AMPHIBIANS

	<p>Livestock fords across streams will be appropriately rocked to stabilize soils/slopes and prevent erosion.</p> <p>7. Large woody debris and boulders used for instream structures will need to be appropriately sized, anchored, and/or placed to eliminate or reduce the movement of these materials during high flow events.</p> <p>8. Heavy equipment will have limited access to the streambeds and streambanks. Instream construction activities will be designed to be minimized to reduce sedimentation rates, channel instability, and aquatic habitat impacts.</p>	
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#### AMPHIBIANS

**FISH****Coho salmon, southern OR/northern CA (T)**

A) Project does not affect an anadromous fish-bearing stream <sup>1</sup> .		Proceed.	
Project affects an anadromous fish-bearing stream <sup>1</sup> .	X	Submit BA to NMFS.	

<sup>1</sup>This means that there is no way that the project could affect a waterway containing coho, or a waterway that leads to one containing coho, or a waterway that does not contain coho but is part of Essential Fish Habitat for coho. Examples of such projects: habitat enhancement in ponds with no outlet, riparian planting in isolated watersheds with no connection to anadromous fish-bearing waters, upland projects that are several hundred feet from a waterway and not upslope from it, and/or do not disturb soil or run-off. Upland projects that may release sediment into non-fish-bearing streams that feed into higher order streams containing anadromous fish may affect coho.

# **BIRDS**

## **marbled murrelet (T)**

A) Project is not inside Habitat Zones 1 or 2.	X Proceed.	
Project is inside Habitat Zone 2.	1. Potential nest trees will not be removed. 2. Conifer removal within suitable nesting habitat will not alter the overstory or intermediate canopy. 3. Proceed.	<b>Project is outside of designated critical habitat for marbled murrelets</b>
Project is inside Habitat Zone 1.	Go to B.	
B) Data show no murrelets within 0.25 mi (402 m) of project area (consult CDFG and USFS).	1. Potential nest trees will not be removed. 2. Conifer removal within suitable nesting habitat will not alter the overstory or intermediate canopy. 3. Proceed.	
Data show murrelets within 0.25 mi (402 m) of project area (consult CDFG and USFS).	1. Program activities that occur within 0.25 miles (402 m) of an occupied site or unsurveyed suitable habitat will be seasonally restricted from March 24 to September 15. 2. Follow the above PDSs. Go to C.	
C) Project doesn't include burning between Feb 1 and June 21.	Go to D.	
Project includes burning between Feb 1 and June 21.	1. When burning in spring, smoke will be managed so that light to moderate, dispersed smoke may be present within a canyon or drainage containing an occupied site or unsurveyed suitable habitat, but will dissipate or lift within 24 hours. 2. When burning in spring, ignition will be discontinued if heavy, concentrated smoke begins to inundate an occupied site or unsurveyed suitable marbled murrelet habitat late in the afternoon in order to allow smoke to dissipate before nightfall. 3. All burn piles will be located to minimize damage to potential nest trees. 4. Follow the above PDSs. Go to D.	
D) Project will not result in noise disturbance.	1. Potential nest trees will not be removed. 2. Conifer removal within suitable nesting habitat will not alter the overstory or intermediate canopy. 3. Proceed.	
Project will result in noise disturbance.	Follow the above PDSs.	

**northern spotted owl (T)**

A) Project is outside range of species (consult CDFG and USFS), or not in forested habitat.		Proceed.	
Project is within range of species (consult CDFG and USFS).	X	Restoration activities will not remove or downgrade (change habitat function) nesting, roosting, foraging, or dispersal habitat. To this end, the average stand diameter (Quadratic mean diameter), basal area, number of large trees per acre, and canopy closure will be maintained within the range of conditions known to be selected by NSOs. Where understory treatments are applied, heterogeneity and multi-layer stand structure will be maintained. Go to <b>B</b> .	
B) Project is outside northern spotted owl critical habitat.	X	Go to <b>C</b> .	
Project is within northern spotted owl critical habitat.		Restoration activities proposed in designated critical habitat will not inhibit the function (nesting, roosting, foraging, dispersal) of the habitat nor will they inhibit the promotion of critical habitat. Go to <b>C</b> .	
C) Project will not take place within suitable northern spotted owl habitat.	X	Follow the above PDSs. Go to <b>D</b> .	
Project will take place within suitable northern spotted owl habitat.		Follow these and the above PDSs: 1. Restoration activities in suitable NSO habitat (nesting, roosting, or foraging) and within 0.5 miles of an active nest site or unsurveyed nesting/roosting habitat will be seasonally restricted from February 1st to September 15th. 2. Snags will not be removed unless absolutely necessary for safety. Large diameter snags (>20 inches dbh) will be left where felled to contribute to habitat for prey species. 3. Large down woody debris (> 24 inches dbh) will not be removed. 4. Restoration activities proposed in suitable habitat will not reduce overstory canopy below 60%. Restoration activities proposed in dispersal habitat will not reduce overstory canopy below 40%. 5. No more than 10 percent of the suitable habitat in an occupied northern spotted owl core area or home range or 10 percent of the unsurveyed suitable habitat in a 7th field watershed may be treated	

		in one 12 month period. If proposed treatments exceed this threshold, then all subsequent projects proposed within that period will be consulted on individually. Go to <b>D</b> .	
<b>D)</b> Project will not occur within 0.25 miles (402 m) of an occupied site or unsurveyed suitable habitat.	X	Follow the above PDSs.	
Project will occur within 0.25 miles (402 m) of an occupied site or unsurveyed suitable habitat.		Follow these and the above PDSs: 1. If northern spotted owl surveys, conducted to protocol, are current and do not detect nesting northern spotted owls within 0.25 miles (402 m) of restoration activities, seasonal restrictions are not warranted. 2. Restoration activities that do not modify habitat but that create noise significantly above ambient levels or smoke and occur within 0.25 miles (402 m) of an active nest site or unsurveyed nesting/roosting habitat will be seasonally restricted from February 1st to July 31 <sup>st</sup> .	

## **MAMMALS**

### **Gray Wolves (E)**

<b>A)</b> Project is not within Siskiyou County or is within Siskiyou County and a pack has not been documented within the County.	X	Proceed.	In August of 2015 a wolf pack was confirmed in Siskiyou County by CDFW. However, the pack has not been documented occurring in the project area.
Project is within Siskiyou County and a pack has been documented as occurring in the project		1. Review BA and determine PDSs to be implemented in order to avoid adverse impacts to Gray wolves.	



area.	2. Proceed.	
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**Comments:**

A No Effect determination was made for the following species or critical habitats because they that are unlikely to occur within the project area, there is no suitable habitat for the species in the project area, the project is outside of the species known range or designated critical habitat, or the species or critical habitat would not be adversely affected by project activities:

Plants:

Whitebark pine (*Pinus albicaulis*) (high elevation pine species)  
 McDonald's rock-cress (*Arabis macdonaldiana*) (restricted to soils derived from ultramafic rocks)  
 Applegate's milkvetch (*Astragalus applegatei*) (project is outside of the species range)  
 Green's tuctoria (*Tuctoria greenii*) (restricted to wetland and vernal pools)  
 Hoover's spurge (*Chamaesyce hooveri*) (restricted to vernal pools; project outside species known range)

Invertebrates:

Shasta crayfish (*Pacifastacus fortis*) (Limited to midsections of the Pit River)

Amphibians:

California red-legged frog (*Rana aurora draytonii*) and its critical habitat (outside the known range of the species and the project does not occur within designated critical habitat for the species)

Birds:

Yellow-billed cuckoo (*Coccyzus americanus*) (large tracts of wooded habitat, primarily cottonwood, with dense cover and water nearby)

Fish:

Lost River sucker (*Deltistes luxatus*) (Project is outside current know range of species)  
 Shortnose sucker (*Chasmistes brevirostris*) (project is outside current know range of species)  
 Delta Smelt (*Hypomesus transpacificus*) (project outside of watersheds that provide water to the delta)  
 Longfin smelt (*Spirinchus thaleichthys*) (project will have no effect to estuarian or near-coastal habitats)

Insects: Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (No elderberry present at project site)

Mammals: North American wolverine (*Gulo gulo luscus*) (found in remote, higher elevation forests)

In the event that any of the species listed above are found to be potentially affected by project activities, they will be consulted on separately.

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**S i g n a t u r e**    *David Johnson*

**D a t e**    *10 / 5 / 2016*

## Appendix H. Cultural Resources Coordination and Compliance



United States Department of the Interior  
FISH AND WILDLIFE SERVICE

Anan Raymond, Regional Archaeologist  
Region 1+ Region 8 Cultural Resource Team  
20555 Gerda Lane, Sherwood, OR 97140  
phone: 503-625-4377, fax: 503-625-4887  
email: anan\_raymond@fws.gov cell: 503-803-7913



To: **David Johnson**

**5/2/2016**

FWS Program - **Conservation Partnerships**  
Funding - **Partners**

From: R1/R8 Cultural Resources Team  
Anan Raymond, Regional Historic Preservation Officer

Subject: **Notification of Compliance with Section 106 of the National Historic Preservation Act (NHPA)**

Thank you for submitting the RCRC form for the below listed project. We have reviewed the form and applied the terms of the Fish and Wildlife Service (FWS) Programmatic Agreement (PA)\*, with the state of: **California**

*Based on the location and nature of the activities, "Appendix A" applies to the following project as described:*

**Lower French Creek Off-Channel Habitat Project**

An Appendix A determination indicates that the FWS has evaluated the potential impact of the proposed project on cultural resources at the location listed above, and we do not anticipate that the project would affect or impact cultural resources.

No further cultural resource identification effort is necessary for the project. However, the existence of cultural resources can never be predicted with certainty. Please be aware that cultural resources are protected by all applicable federal and state laws. In the event that cultural resources are discovered during project implementation, any ground disturbing activity should be halted and the FWS Regional Archaeologist should be notified at the above address. If the planned activities change, please let us know.

Please note that, in compliance with the terms of the PA, the project will be reported to the State Historic Preservation Office in the annual report, prepared and submitted after the end of the current fiscal year. Thank you for considering cultural resources.

*\*Programmatic Agreement Among the U.S. Fish and Wildlife Service Region 1, the Advisory Council on Historic Preservation, and the State Historic Preservation Officer Regarding the Administration of Routine Undertakings in the State of California*



PROJECT NAME: **Lower French Creek Off-Channel Habitat Project**

LOCATION INFORMATION:		FWS Unit	Yreka FWO	Township	Range	Section	PROJECT ACRES
County	Siskiyou	USGS Topo	McConaughy Gulch	41N	9W	11	Total
State	California						1
Appendix Item	Program Funding	Conservation Partners	Field Contact				APE
A 10			Johnson, D				1

### Lower French Creek Off-Channel Habitat Project



**Note:** Section 106 compliance assistance is being provided solely for the activities as defined in the request for cultural resource compliance submitted to the CRT for the project. Changes to the planned activities and any future projects in this area may be subject to additional Section 106 compliance efforts.



PROJECT NAME: **Lower French Creek Off-Channel Habitat Project**

LOCATION INFORMATION:		FWS Unit	Yreka FWO	Township	Range	Section	PROJECT ACRES
County	Siskiyou	USGS Topo	McConaughy Gulch	41N	9W	11	Total
State	California						1
Program	Conservation		Field Contact				APE
Funding	Partners		Johnson, D				1

### Lower French Creek Off-Channel Habitat Project




**Note:** Section 106 compliance assistance is being provided solely for the activities as defined in the request for cultural resource compliance submitted to the CRT for the project. Changes to the planned activities and any future projects in this area may be subject to additional Section 106 compliance efforts.



**CULTURAL RESOURCES COMPLIANCE**  
**Division of Environmental Affairs**  
**Cultural Resources Branch (MP-153)**

**MP-153 Tracking Number:** 16-KBAO-240

**Project Name:** Lower French Creek Off-Channel Habitat Development

**NEPA Contact:** Tyler Hammersmith, Natural Resource Specialist 

**NEPA Document:** 2016-EA-007

**MP 153 Cultural Resources Reviewer:** Scott Williams, Archaeologist

**Date:** September 22, 2016

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Reclamation proposes to provide Grant Funding to the U.S. Fish and Wildlife and Siskiyou Resource Conservation District for Off-Channel Habitat Development on French Creek. This action constitutes an undertaking with the potential to cause effects to historic properties, assuming such properties are present, requiring compliance with Section 106 of the National Historic Preservation Act (NHPA) as amended. Reclamation granted the U.S. Fish and Wildlife Service Region 1, Lead Federal Agency status for the Section 106, for this undertaking, and Mr. Anan Raymond, U.S. Fish and Wildlife Service Region 1 Regional Archaeologist accepted with the understanding that the Section 106 responsibility will be satisfied under an active PA, specifically:

*Programmatic Agreement Among the U.S. Fish and Wildlife Service Region 1, the Advisory Council on Historic Preservation, and the State Historic Preservation Officer Regarding the Administration of Routine Undertakings in the State of California.*

Under the PA, the FWS has determined that an Appendix A undertaking, including item 11, has minimal potential to affect historic properties; the standard historic property identification effort including tribal consultation is not conducted, and; a no historic properties finding is programmatically determined. The Lower French Creek undertaking meets the criteria of Appendix A, item 11 "restoration of stream channels" because the undertaking activities and the APE occur within an active stream channel/floodplain. As such, the APE is continually altered by natural forces including erosion, sedimentation, and annual flooding. It is unlikely that humans would have occupied or conducted activities (with an archaeological trace) in the APE. Even if they had, archaeological deposits or features are not likely to have survived subsequent natural and human-caused disturbance.

This project will create a 0.25 acre off-channel pond to provide cold water refugia for coho salmon and other anadromous fish during the summer months and winter rearing habitat during high flows. A single flat water access channel will be constructed to connect the pond to French Creek. All work will be completed in the stream channel. Willow sprigs will be planted along the edges of the pond to reduce erosion and create overhanging vegetation over time. To further



minimize erosion, large cobble will be used to armor the access channel and approximately 50 feet of the river bank downstream from the access channel. The 0.25 acre off-channel habitat pond will be excavated to a depth of 8 feet. The main portion of the pond is approximately 65 feet from French Creek and is inundated frequently during high flows. Pond excavation will result in approximately 8,000 cubic yards of fill. Fill will be deposited on site in the upper extent of the active floodplain. Given that this project will occur within the French Creek floodplain, which is and has historically been frequently inundated, it is unlikely that cultural resources exist on the site. Additionally, the access route for heavy equipment will occur along existing dirt roads or across fields that have been managed for crops or pasture for decades. As such, it is unlikely that heavy equipment would impact cultural resources.

This document serves as notification that Section 106 compliance has been completed for this undertaking. Please note that if project activities subsequently change, additional NHPA Section 106 review, including further consultation with the SHPO, may be required.